

ƿ Se þe nāðor nele ne leornuan ne tæcan.
I ƿif he mæg. þon acolað his andƿite fram
þære halƿan lare 7 he ƿeƿe ƿa lyrlum
7 lyrlum fram ƿode. Elƿic.

ERIC POOLE

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Johnas Covell
June 18 1637

THE
INTERPRETER:
OR
BOOKE CONTAINING
the Signification of Words.

VVherein is set foorth the true meaning
of all, or the most part of such Words and
Termes, as are mentioned in the Law Writers,
or Statutes of this victorious and renowned
*Kingdome, requiring any Exposition
or Interpretation.*

A Worke not onely profitable, but necessary for
such as desire throughly to be instructed in the
knowledge of our Lawes, Statutes, or
other Antiquities.

Collected by JOHN COVELL, Doctor, sometime the
Kings Majesties Professour of the Civill Law
in the Univerſitie of CAMBRIDGE.

In Legum obscuritate capio.

LONDON,
Printed for VVilliam Sheares. 1637.

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OR
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Vulgar is taken in the true meaning
of all, or the most part of such Words and
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or Statutes of this Kingdom and are owned
by the People.

A Word not only profitable, but necessary for
such as desire thoroughly to be instructed in the
knowledge of our Laws, Customs, or
other Matters.

Collected by John Cowart Esq; Barrister at Law
King's Counsel Professor of the Civil Law
in the University of Cambridge.

In Legum obscuris capitulis.

LONDON
Printed for William Streater. 1637.



To the most Reverend Father in God,
his especiall good Lord, the Lord Archbishop
of Canterbury, Primate and Metropolitan of
all England, and one of his Majesties most Ho-
nourable Privie Councell.



After long deliberation, I hardly induced
my selfe to craue your gracious protection
toward this simple worke: valuing it at so
low a price, as I thinke it hardly worth the
respect of any graue man, much lesse the
favourable aspect of so honorable a perso-
nage. Yet the remembrance of those your
fatherly provocations, whereby, at my
comming to your Grace from the Vniver-
sitie, you first put me upon these studies, at the last by a kind of
necessitie inforced me to this attempt: because I could not see
how well to avoide it, but by adventuring the hatefull note of
unthankfulnesse. For I cannot without dissimulation, but con-
fesse my selfe perswaded, that this poore Pamphlet may proue
profitable to the young students of both Lawes, to whose ad-
vancement that way, I haue of late addicted mine endeavours:
else were I more then madd to offer it to the world: and to of-
fer it without mention of him, that by occasioning of this good,
more or lesse, deserveth the prime thanks, were to proue my
selfe unworthy of so graue advice.

And therefore howsoever I account this too much boldnesse in respect of the subject: yet could I be exceedingly glad it might please your Grace to ascribe mine intention to the integrity of my dutie. For he that meaneth truely well, and cannot performe much, must needs rejoyce at the good acceptance of that little which he performeth.

All I craue for this at your Graces hands, is patience and pardon for this enterprise, with the continuance of those your many favours, that hitherto to my great comfort I have enjoyed. And so my long obseruation of your Iudicious disposition, having taught me, what small delight you take in affected complements and verball commendation, without more words, In all true humblenesse, I beseech the Almighty long to continue your Grace in health and prosperitie, to his glory, and the good of his Church.

Your Graces at all

Commaundment

Io. COVELL.

To the Readers.



GENTLE Readers, I heere offer my selfe to your censures, with no other desire, then by you to be admonished of my faults. For though I doe professe the amplifying of their workes, that haue gone before me in this kinde, and haue both gathered at home, and brought from abroad some ornaments for the better embellishing of our English Lawes: yet am I neither so vaine as to deny my imperfections, nor so passionate, as to bee offended at your charitable reformation. Nay, my true ende is the advancement of knowledge; and therefore haue I published this poore worke, not onely to impart the good thereof to those young ones that want it: but also to draw from the learned the supply of my defects: and so by degrees, if not my selfe to finish this modell, yet at the least, by the heat of emulation to incense some skilfuller Architect thereunto. Yea I shall thinke my paines sufficiently recompensed, if they may be found but worthy to stirre up one learned man to amend mine errors.

The Civilians of other Nations, haue by their mutuall industries raised this kinde of worke in their profession, to an unexpected excellencie. I haue secne many of them that haue bestowed very profitable and commendable paines therein: and lastly one Calvinus, a Doctor of Heidelberge, like a laborious Bee, hath gathered from all the former, the best iuyce of their flowres, and made up a hive full of delectable honie. And by this example would I gladly incite the learned in our Common Lawes and Antiquities of England, yet to lend their aduice, to the gaining of some comfortable lights and prospects toward the beautifying of this ancient Palace; that hitherto hath bene accounted (howsoeuer substantially) yet but darke and melancholy.

Whosoever will charge these my travailes with many oversights, he shall neede no solemne paines to proove them. For I will easily confesse them. And, upon my view taken of this Booke sithence the Impression, I dare assure them that shall observe most faults therein, that I by gleaning after him, will gather as many omitted by him, as he shall shew committed by me. But I learned long sithence out of famous Tullie, That as no mans errors ought to be followed, because he saith some things well: so that which a man saith well, is not to bee rejected, because he hath some errors. No man, no Booke is voide of imperfections. And therefore reprehend who will, in Gods name: that is with sweetnes, and without reproach. So shall hee reape heartiethankes at my hands: and by true imitation of the most judicious that ever wrote, more soundly helpe on this point of learning to perfection in a few monethes, then I by tossing and tumbing my Bookes at home, could possibly have done in many yeares. Experience hath taught mee this in my Institutes lately set forth: by publishing whereof I have gained the judicious observations of divers learned Gentlemen upon them, which by keeping them private I could never have procured. By which meanes, I hope one day to commend them to you againe in a more exact puritie, and so leave them to future times for such acceptance, as it shall please God to give them.

I have in some towardnesse a Tract (De regulis Iuris) wherein my intent is, by collating the cases of both Lawes, to shew, that they both be raysed of one Foundation, and differ more in language and termes then in substance, and therefore were they reduced to one method (as they easily might) to bee attained (in a manner) with all one paines. But my time imparted to these studies, being but stolne from mine employments of greater necessity, I cannot make the haste I desire, or perhaps that the discourse may deserve. Wherefore untill my leisure may serve to performe that, I intreat you lovingly to accept this.

One thing I have done in this booke, whereof, because it may seeme strange to some, I thinke to yeeld my reason: and that is the inserting not only of words belonging to the art of the Law, but of any other
also,

also, that I thought obscure, of what sort soever; as Fish, Cloath^s Spices, Drugs, Furies, an such like. For in this I follow the example of our Civilians, that have thought it their part to expound any thing they could meet within their walke. And in deed a Lawyer professeth true Philosophy, and therefore should not be ignorant (if it were possible) of either beasts, fowles, or creeping things, nor of the trees from the Cedar in Lebanon, to the Hyssop that springeth out of the wall. And therefore, if I haue either omitted any hard word within my circuit, or set it downe not expounded; I give you good leaue to impute the one to my negligence, the other to mine ignorance: and so commend these my paines to your best profit, and you unto God. November. 3. 1607.

IO. COVELL.



also, that I thought of what I wrote; as I thought of
Spirits, Devils, Fairies, as such like. For in this I follow the ex-
ample of our Christians, that have thought it their part to expound
any thing they could meet with in their works. And it need a lawyer
to profess true Philosophy, and therefore I should not be ignorant of
it were possible of either side's forces, or excepting things, nor of the
news from the Court in Lebanon, to the House of Representatives of
the wall. And therefore, if I have either omitted any hard word
within my circuit, or let it down not expounded; I give you good
leave to impute the one to my neglect, the other to mine ignorance.
and so commend these my papers to your self profit, and you unto God.
November. 5. 1607.

Io. COVILL.



The Signification of Words.

A B

A B



ABATE (*Intrudere*) seemeth to bee taken from the french *Abatre*. i. *decutere*, *destruere*, *prostruere*. It is in

the Writers of the common law used both actively and passively, or rather neuterly: as to abate a Castle or a Fortlet, *Old nat. br. fo. 45.* which in *Westm. i. cap. 17.* is plainly interpreted to be as much, as to beat downe. And to abate a Writ, is by some exception to defeat or overthrow it, *Britton, cap. 48.* And in this Active voice it hath two significations: one generall, another speciall: generall, as in the former examples: and againe in *Kitchin, fo. 173.* *Abater meason*, is to ruine or cast downe a house: especiall, as in the *Old nat. br. f. 115.* A stranger abateth, that is, entreth upon a house or land void by the death of him that last possessed it, before the heire take his possession, and so keepeth him out. Wherefore as hee that putteth out him in possession, is

said to disseise: so he that steppeth in betweene the former possessor and his heire, is said to abate. In the neuter signification it is used, *anno 34. Ed. 1. stat. 2.* of joint tenants; viz. the writ of the demandant shall abate, that is, shall be disabled, frustrated or overthrowne. So in *Stawnfords ples of the Crowne, fol. 148.* In this case a man may say, that the Appeale abateth by covin, that is, that the accusation is defeated by deceit. See *Intrusion*.

Abatement (*Intrasio*) cometh also of the French (*abatement*. i. *dejectio*, *decussio*, *prostratio*) and is likewise used as the verbe (*abate*) both actively & passively: sometime signifying the act of the abatour; as the abatement of the heire into the land before hee hath agreed with the Lord, *Old nat. br. fol. 91.* Sometime the affection or passion of the thing abated, as abatement of the writ, *Kitchin, fol. 214.* And in this signification it is as much as *exceptio dilatoria* with the Civilians, *Brit. cap. 51.* or rather an effect of

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it.

it. For the exception alledged, and made good, worketh the abatement. And this exception may be taken either to the insufficiencie of the matter, or to the incertaintie of the allegation by the misnaming of the Plaintiffe, Defendant, or place, to the variance betwene the Writ and the Specialtie, or Record, to the incertaintie of the Writ, Count, or Declaration, or to the death of the Plaintiffe or Defendant: New Termes of the Law, *verbo*, Abatement of Writ. And he that will reade more of this, may looke upon the new Booke of Entries, *verbo*, *Briefe*.

Abatour (*Intruder*) is hee that abateth, that is, thrusteth into a house or land, void by the death of the former possessor, and not yet entred or taken up by his Heire. *Old. nat. br. fol. 115. Perkins fol. 76.* If their bee a disseisor, Abator, or intruder upon any Land by the deceipt of the woman, &c.

Abbot (*Abbas*) in French *Abbé*, is by skilfull Linguists said to come from the Syriacke word (*Abba*) i. pater, and in our Common Lawe is used for him that in the Covent or fellowship of Canons hath the rule and preheminance. He is by *Iustinian. novel. constitut. 115. §. Canonici* tearmed *Archimandrita*, of others *Canthiarcha*, vel *Archimonachus*.

Hoto. in verbis Fenda. Of these some here in England were Mitred, some not: *Stowes annals, pa. 442.* And those that were Mitred, were exempted from the Iurisdiction of the Diocesan, having in themselves Episcopall authority within their Precincts, and being also Lords of the Parliament. Of this kinde thus saith *Corasius; Aliqui Abbates habent jurisdictionem Episcopalem, ad quos cum Ecclesia pleno jure pertineat, in eorum Monasteriis Episcopus nihil exercet, cap. Ea qua. Vbi Panor. extra de statu Monacho. Hac dictus author in Paraphrasi de Sacerdotio, materia parte pri. cap. 9.* And these were called Abbots fove-raigne, anno 9. R. 2. cap. 4 and Abbots generals, as *M. Fearn* noteth in his glory of generositie. *pa. 126.* The other sort were subject to the Diocesan in all spirituall government, cap *Monasteria 18. quest. 2. cap. Abbas. & cap. visitandi, cum quatuor sequentibus ibidem cap. Omnes. 16. quest. 7. & ca. Cum venerabilis. extra. de religiosis domibus.* And as Abbots, so were there Lord Priors also, who both had exempt jurisdiction, and were Lords of the Parliament, as appeareth by *S. Edward Cooke de jure Ecclesiastico, fol 28. a.*

Abeyance. seemeth to be derived from the French (*Abayer. i. allatrare,*) to barke at as dogges doe against a stranger, or Spaniels

at a Fesant put to the pearke. So children are said (*bayer à la mamme*) when seeing the dugg, they struggle and make meanes towards it. And they likewise (*bayer à l'argent*) *qui spe atque animo incumbunt pecunia*. This word in *Littleton, cap. Discontinuance*, is thus used. The right of Fee-simple lyeth in abeyance: that is, (as himselfe interpreteth) all onely in the remembrance, intendment, and consideration of the law. Also in the same place, the Franke tenement of the Glebe of the Parsonage, is in no man during the time that the Parsonage is voyd, but is in abeyance. And againe: It is a principle in law, that of every land there is Fee-simple in some man, or the Fee-simple is in Abeyance. Considering these places, and comparing them with the signification of the French word, I am driven to thinke, that our auncient Lawyers would signifie hereby a kind of hope, or longing expectance: because that those things that bee in abeyance, though for the present they be in no man, yet they are in hope and expectation belonging to him that is next to enjoy them. For I find also in the French, that *un bayard*, is *avidus spectator*, a greedy beholder. I cannot in mine owne opinion better compare this, then to that which the Civilians call *Heredi-*

tatem jacentem. For as *Bracton* saith (*lib. 1. cap. 12. nu. 10.*) *Hæreditas jacens nullius est in bonis ante aditionem. Sed fallit in hoc quia sustinet vicem persone defuncti, vel quia speratur futura hereditas ejus qui adibit*. So that (as the Civilians say) goods and lands do *jacere*, whilst they want a possessor, and yet not simply, because they had lately one, and may shortly have another: so the common Lawyers doe say, that things in like estate are in abeyance. Reade farther of this in the new termes of law, and in *Plowdens reports, casu Walsingham, fol. 554. a.*

Abet (*Abettare*) may without absurdity be said to proceed from the French (*bouter i. ponere, apponere, impellere, propellere*. It signifieth in our common law as much as to encourage or set on. The substantive (*abetments, abettum*) is used for an encouraging or setting on, *Stamf. pl. cor. fol. 105.* And also (*abettour*) for him that encourageth or setteth on, *Old. nat. br. fol. 21.* But both verbe and nounce is alway used in the evill part.

Abisberfing (according to *Rastall* in his *Abridgement, titulo Exposition of law words*) is to be quit of amerçiements before whomsoever of transgression. The author of the new tearmes calleth it otherwise (*Misberfing*)

and faith it is to bee quit of amer-
ciaments before whom soever
of transgression proved. I am of
opinion that the word originally
signifieth a forfeiture, or an amer-
ciament, and that it is much
transformed in the writing by
misprision and ignorance of
Clearkes: thinking it very pro-
bable, that it proceedeth from
the Germane verbe (*Beschetzen*)
which is as much as *fisco addicere*
vel confiscare. It seemeth by the
former Authors to bee termed a
freedome or liberty, because hee
that hath this word in any char-
ter or grant, hath not onely the
forfeitures and amerciaments of
all others, within his fee for
transgressions, but also is him-
selfe free from all such controule
of any within that compasse.

Abjuration (*abjuratio*) signifieth
in our common law a sworne
banishment, or an oath taken to
forsake the Realme for ever. For
as *Stamf. pl. cor. lib. 2. cap. 40.*
faith out of *Polydore Virgils* ele-
venth booke of Chronicles, the
devotion toward the Church,
first in *S. Edward* a Saxon King,
and so consequently in all the rest
untill *an. 22. H. 8.* was so earnest,
that if a man having committed
felonie, could recover a Church
or Church-yard before hee were
apprehended, hee might not bee
thence drawne to the usuall triall
of law, but confessing his fault

to the Iustices at their comming,
or to the Coroner, before them,
or him give his oath finally to
forsake the Realme. Of this you
may reade a touch, *anno 7. Hen. 7.*
cap. 7. But the forme and effect
of this you may have in the old
abridgement of Statutes, *titulo,*
Abjuration, num. 3. taken out of
the ancient Tractate intituled, *De*
officiis coronatorum: as also in
Cromptons Tractate of the office
of the Coroner, *fol. 206. b.* and in
the new booke of Entries, *verbo,*
Abjuration: and in *Andrew Ho-*
rus mirrour of Iustices, *lib. 1. cap.*
del office del coroner. This part of
our law was in some sort pra-
ctised by the Saxons, as appea-
reth by the lawes of King *Edward*
set out by *M. Lamberd, nu. 10.* but
more directly by the Normans,
as is evident by the grand custo-
mary, *cap. 24.* where you have
these words in effect: Hee that
flyeth to a Church or holy place,
may stay there for eight dayes.
And at the ninth day hee must bee
demaunded, whether hee will
yeeld himselfe to secular justice,
or hold him to the Church. For
if he will he may yeeld himselfe
to the lay Court: if he will cleave
to the Church, he shall forswear
the countrey before the Knights
and other people of credit, which
may witnesse the act, if need re-
quire. The forme of the oath is
likewise there set downe with
her

the rest of the proceeding in this matter very agreeable with ours. This mercie as well of the Saxons as Normans derived unto us, something resembleth that of the Romane Emperors toward such as fled to the Church, *lib. 1. Co. tit. 12.* or to the images of themselves, *eodem, titulo 25.* And also that of *Moses* touching the Cities of refuge, *Exod. cap. 21. vers. 13. Numb. cap. 15. vers. 6, 11, 12. Deut. 19. vers. 2. Iosh. 20. vers. 2.* But as it was in our Ancestors daies larger by great oddes in this Realme, so had it lesse reason, as it may appeare, to all that will compare them. Of all circumstances belonging to this abjuration, you may farther reade the new Termes of Law. *Starnford ubi supra*, and such others. But this grew at the last upon good reason to be but a perpetuall confining of the offender to some Sanctuarie; wherein, upon abjuration of his liberty and free habitations, hee would chuse to spend his life, as appeareth, *anno 22. H. 8. cap. 14.* And this benefit also by other Statutes is at the last wholly taken away. So that abjuration at this day hath place but in few cases: And if it bee inflicted upon any, it is not a confining to a Sanctuarie (for there be no Sanctuaries remaining amongst us) but a sworne banishment of the Kings Dominions.

This the Civilians call *exilium*, or *deportationem*, *lib. 28. Digest. titulo 22. de interdictis, relegatis & deportatis.*

Abridege (*Abbreviare*) cometh of the French (*abreger*) and in one generall language signifieth as much as to make shorter in words, holding still the whole substance. But in the common law it seemeth (at the least, for the most part) to be more particularly used for making a declaration or count shorter by subtracting or severing some of the substance therein comprised. As for example: A man is said to abridge his plaint in an Assise, or a woman her demand in an action of Dower, that hath put in to the plee, or demand any land not in the tenure of the tenant or defendant: and finding that by his answer, raseth those parcels out of the plee, praying answer to the rest. So that here (*abridger*) is not (*contrahere*) but rather *subtrahere*. Termes of the law. *Brooke, titulo Abridgement.* And *anno 21. H. 8. cap. 3.* Of this the Civilians have no use, by reason of certaine cautelous clauses, they ordinarily have at the end of every position or article of their libell or declaration to this effect: *Et ponit conjunctim, divisim, & de quolibet, & de tali & tanta quantitate vel summa qualis & quanta per confessionem partit ad-*

versa, vel per probationes legitimas in fine litis apparebit. And againe, in the conclusion of all : *Non astringens, se ad singula probanda, sed petens, ut quatenus probaverit in premisis, aut eorum aliquo, eatenus obtineat.* By verue of which claufes the Plaintiffe faileth not in the end by any over or under demand, neither is driven to begin his action againe, but obtaineth for so much as hee proveth to bee due, though not to the heighth of his demand.

Abridgement (abbreviamentum) see *Abridge.*

A C

Accedas ad Curiam, is a Writ that lieth for him, who hath received false judgement in a Court Baron, being directed to the Sheriffe, as appeareth by *Dyer. fol. 169. nu. 20.* Like as the writ *De falso iudicio*, lieth for him that hath received false judgement in the county Court: the forme whereof you may see in *Fitzh. nat. br. fol. 18. d.* and in the Register, *fol. 9. b.* where it is said, that this writ lyeth for justice delayed, as well as falsely given. It is a species of the writ called (*Recordare*) Register originall, *fol. 5. b.* and *Fitzh. ubi supra.*

Accedas ad Vicecomitem is a writ directed to the Coroner commanding him to deliver a writ to the Sheriffe, that having a (*pone*) delivered unto him, doth

suppresse it. *Regist. origin. fol. 83.*

Accessory (Accessorius vel Accessorium) is used in our common law, otherwise then among the Civilians. For whereas with them it is generally taken for any thing depending upon another: here though it be so likewise, yet most commonly and notoriously it signifieth a man that is guilty of a felonious offence, not principally, but by participation: as by commandement, advice, or concealement. And a man may bee accessory to the offence of another after two sorts: by the common law, or by statute: and by the common law two wayes also: that is, before or after the fact. Before the fact, as when one commandeth or adviseth another to commit a felony, and is not present at the execution thereof. For his presence maketh him also a principal: wherefore there cannot bee an accessorie before the fact in man-slaughter, because man-slaughter is so-daine and not prepenfed, *Cooke, lib. 4. fol. 44. a.* Accessory after the fact, is when one receiveth him, whom hee knoweth to have committed felonie. Accessorie by statute is hee that abetteth, counelleth, or hideth any man committing or having committed an offence made felony by statute. For though the statute make no mention of abettours,

tours, &c. yet they are by interpretation included. Of all these consult with *Stawnf. pl. cor. lib. 1. cap. 45. 46. 47. 48.* There is also an accessorie of an accessory, as hee that wittingly receiveth an accessorie to felonie, *lib. Assis. 26. pl. 51 Coron. Fitzb. 196. Stawnf. pl. cor. li. 1. cap. 48.* And the law of England is, that so long as the principall is not attainted, the accessorie may not be dealt with, *Stawnf. ubi supra.* The reason whereof you may see, *Cooke, lib. 4. fol. 43. b.* And this is also true by the civill law. *Claudius de Bartandier. in pract. crim. regula 101.* at the least untill the principall bee certainly knowne. Of this subject reade *M. Cromptons Iustice, fol. 37. b. 38. 39.*

Acceptance, is a receiving of a rent, whereby the receiver bindeth himselfe forever to allow a former fact done by another, whether it be in it selfe good or not, New tearmes of Law.

Accompt (computus) is in the Common Law taken for a Writ or action brought against a man, that by meanes of Office or businesse undertaken, is to render an account unto another: as a bailife toward his Master, a guardian in focage toward his ward, and such others, as you shall finde particularly named by *Fitzb. in his nat. br. fol. 116.* where you may also

have the forme and further use of this Writ. See *ex parte talis.*

Accroche. See *Enchrochement.* This word Accroche is used, *anno 25. Ed. 3. Stat. 3. cap. 8.*

Achat, commeth of the French (*achet. i. emptio, nundinatio*) and is used for a contract or bargaine. *Broke tit. Contract.*

Acquittall, signifieth in our common Law most ordinarily a deliverance and setting free from the suspicion or guiltinesse of an offence: and is twofold: acquittall in law, or acquittall in fact. Acquittall in law is, when two be appealed, or endicted of felonie, one as principall, the other as accessorie, the principall being discharged, the accessorie by consequent is also freed. And in this case as the accessorie is acquitted by law, so is the principall in fact, *Stawnf. pl. cor. fo. 168.*

Acquittance (acquietantia) cometh from the french (*quitter* or *quitter. i. acceptio ferre, or quietāce. i. acceptitatio, apocha*) and signifieth a release or discharge from a debt formerly due. But the verbe (*acquite*) the participle (*acquited*) and the nowne (*acquittall*) signifie also a discharge or cleering from an offence objected, as: acquitted by proclamation, *Smith de Rep. Anglo pa. 76. Stawnf. pl. cor. fol. 168. Broke, tit. Acquittall.* See the new Termes of Law. *verbo, Acquittall and Acquittance.*

Acquis-

Acquietandis plegis, is a Writing for a suretie against the creditour that refuseth to acquite him, after the debt is paid by the Debtour, *Register orig. fol. 158.* where it appeareth that this is a Iusticies.

Acre (*acre*) is a certaine quantitie of land containing in length 40. perches, and foure in breadth, or to that quantitie, bee the length more or lesse. And if a man erect any new Cotage, hee must lay 4. acres of land to it after this measure, *anno 31. Eliz. cap. 7.* and with this measure agreeth Master *Crompton* in his Iurisdiction of Courts, *fol. 222.* though hee say also, that according to the divers customes of divers Countries the Perche differeth, being in some places and most ordinarily, but 16. foot *dimid.* But in the Counties of *Stafford* 24. foote, as was adjudged in the Case betweene Sir *Ed. Aston*, and Sir *Iohn B.* in the Exchequer. In the Statute made of sowing of Flax, *anno 24. H. 8. cap. 4.* eight score Perches make anacre, which is 40. multiplied by 4. See also the ordinance of measuring land, made *anno 34. Ed. 1. statut. 1.* which agreeth with this accompt. The word (*Acre*) seemeth to come from the Germane word (*acker*) which is all one with the Latine (*ager.*)

Action (*actio*) is defined by

Bracton lib. 3. cap. 1. as it is by *Iustinian. lib. 4. Instit. titulo de actionibus, viz. Actio nihil aliud est quam jus persequendi in iudicio quod alicui debetur.* Action is principally divided by *Iustinian, in personalem & realem*: by *Bracton*, into personall, reall, and mixt: action personall is that, which belongeth to a man against another by reason of any contract, offence, or cause of like force to a contract or offence made or done by him or some other, for whose fact hee is by law to answer, *Bract. lib. 3. cap. 3. nu. 2.* Action reall is defined to bee that which is giuen to any man against another, that upon any cause possesseth or occupieth the thing required or sued for in his owne name, and none other mans: and in this onely respect, that hee possesseth or occupieth the thing, and none other. *Bract. ibid. nu. 3.* and his reason is this: *quia habet rem vel possidet, quam restituere potest vel dominum nominare.* This definition and reason hee farther exemplifieth in the words there following, which hee that will may reade at large. Action mixt is that, which lyeth as well against or for the thing which wee seeke, as against the person that hath it: and is called mixt, because it hath a mixt respect both to the thing and the person. *Bract. lib. 3. cap. 3. nu. 5.* For

example, the diuision of an inheritance betweene coheires or copartners, called in the civill lawe (*actio familie exciscunda*;) secondly, the diuision of any particular thing being common to more, called likewise (*actio de communi dividundo*;) this kind of action (saith *Bracton*) doth seeme to be mixt, because it lyeth as well against the thing, as the person: and indeed so doe other excellent Civilians, as *Cuiacius* and *Wesembecius* in their *Paraboles*. *¶ finium regund.* And though *Iustinian* in his first division omitteth the third member: yet afterward in the same title, §. 20. he saith as these men doe, viz that there bee certaine actions (naming these and other of like nature) that seeme to haue a mixture, &c. Of this you may also reade *Britton* at large in his chapter 71. And this division of action springeth from the object or matter, whereabout it consisteth, *Wesemb. parat. ¶ de actio. & obliga.* The author of the new termes of law defineth a mixt action to bee a suite given by the lawe to recouer the thing demanded, and also the damages for wrong done: as in Assise of nouel disseisin: the which writ, if the disseisour make a feoffment to another, the disseisour shall haue remedie against the disseisour and the feoffor, or other land tenant, to recover not

onely the land, but the damages also. See the rest. These wordes occasion me to shew, that *actio* is by the civill lawe called *mixta* in two respects: *Nam quedam miste sunt quod in se, & actionis in rem, & actionis personalis naturam habeant. & in iis & actor & reus uterque fit, l. actionis verbo. §. finis & de obliga. & actio. Tales sunt actio familie excisc. communi divid. & finium regun. quedam verò miste sunt quod rem simul & penam persequantur. ut in actione vi bonorum rapt. legis aquilia, & ea que datur contra eos qui legata vel fidei commissa sacrosanctis Ecclesiis relicta solvere distulerunt.* And of this latter sort is the example that the said author bringeth of a mixt action.

Action, is also by the Civilians divided, of the efficient cause, in *civilem & pratoriam*. Whereof the one riseth out of the common civill lawe, the other from some edict of the Pretour. Who being chiefe Iusticer, had authoritie for his yeare, to supply the defects of the general law by his especial edicts. And a division not vnlike this may bee made in the common law of England, one growing from the ancient customary law, the other from some statute. *Brooke tit. Action sur le statut.*

Action of the finall cause, is divided into *civil*, *penal*, & *mixt*.

Cooke vol. 6. fo. 61. a. Action civile is that, which tendeth onely to the recovery of that which by reason of any contract or other like cause, is due unto us: as if a man by action seeke to recover a summe of money formerly lent, &c. Action penall is, that aimeth at some penalty or punishment in the partie sued, be it corporall or pecuniarie. As in the action *legis Aquilia* in the civile law: whereby in our common law the next friends of a man feloniously slaine or wounded, shall pursue the law against the murderer, or him that wounded him, to condigne punishment. *Bract li. 3. ca. 4.* Action mixt is that, which seeketh both the thing whereof we are deprived, and a penalty also for the unjust deteyning of the same: as in an action of tithe upon the statute. *anno 2. & 3. Ed. 6. ca. 13.*

Action is also, according to the forme of petition divided into such as are conceived to recover either the simple value of the thing chalenged, or the double, the triple, or quadruple. *Bract li. 3. ca. 3. nu. 6.* So doth *Decies tantum* lie against embracers. *Fitzh. nat. br. fo. 171.* and against jurors that take money for their verdict of one part, or the other, or both. And to be short, any other action upon a statute that punisheth any offence by restitu-

tion, or fine proportionable to the transgression.

Action is preiudicall (otherwise called preparatorie) or else principall: prejudiciall is that which groweth from some question or doubt in the principall: as if a man sue his younger brother for land descended from his father, and it be objected vnto him that he is a bastard. *Bract li. 3. ca. 4. nu. 6.* For this point of bastardie must be tryed before the cause can farther proceed, and therefore is termed *preiudicialis, quia prius indicanda.*

Action is either awncestrell, or personall. *Stawf. pl. cor. 59.* Awncestrell seemeth to be that, which we haue by some right descending from our Awncester vpon vs: and that personall, which hath the beginning in and from our selves.

Action vpon the case (*actio super casu*) is a generall action giuen for redresse of wrongs done without force against any man, and by law not especially provided for. For where you have any occasion of suite, that neither hath a fit name, nor certaine forme already prescribed: there the Clearkes of the Chauncery in auncient time conceived a sette forme of action for the fact in question: which the Civilians call *actionem in factum*, & our common Lawyers action vpon the case

case. *In factum actiones dicuntur ideo, quia quod nomine non possunt exprimere negotium id rei gesta enarratione declarant citra formulā ac solennitatem vllā: Cuiacius & Gothofredus ad Rubricam de prescriptis verbis.* And whereas in the civile law there are two sorts (*actionis in factum*) one tearmed *actio in factum ex prescriptis verbis*, the other *actio in factum pratoria*. *Wesemb. parat. de prescrip. verb.* the former growing upon words passed in contract, the other more generally upon any fact touching either contract or offence formerly not provided against, this action upon the case seemeth in use to be more like to the Pretours action *in factum*, then to the other: because in the perusall of the new booke of entries, and *Brookes* his abridgement hereupon, I perceiue that an action vpon the case lieth as well against offenses, as breach of contract. Of this see more in the word *Trespas*.

Action vpon the statute (actio super statuto) is an action brought against a man vpon breach of a statute: to be resembled in mine opinion to any action given in the law imperiall, either vpon *edictum pratoris*, *plebiscitum* or *senatusconsultum*. For as the Pretour, so the common people in *comitijs tribubus*, and the Senatours or nobility in *curia vel senatu*, had

power to make lawes, whereupon the Pretour or other Iudges permitted action. And even so our high court of Parliament maketh statutes against such offences, as are either newly grown, or more and more increased: and our Iudges intertaine their ples, that commence actions against the breakers of them.

Action is perpetuall or temporall (*perpetua vel temporalis*) and that is called perpetuall, the force whereof is by no time determined. Of which sort were all ciuill actions among the auncient Romaines, *viz.* such as grew from lawes, decrees of the Senate, or constitutions of the Emperors: whereas actions granted by the Pretor, died within the yeare, *de perpet. & tempor. actio. in Institut.* So wee haue in England perpetuall and temporarie actions: and I thinke all may be called perpetuall, that are not expressly limited. As diuers Statutes giue actions, so they be pursued within the time by them prescribed, namely, the Statute *anno 1. Ed. 6 cap. 1.* giueth action for 3. yeares after the offences therein shall be committed, and no longer: and the Statute *anno 7. H. 8. cap. 3.* doth the like for foure yeares, and that *anno 31. Eliz. cap. 5.* for one yeare and no more. But as by the ciuill law no actions were at the last so perpetuall,

tuall, but that by time they might be prescribed against: as *actiones in rem decem aut viginti terminantur annis, personales vero triginta. §. 1. de perpet. & temp. actio. in Institutio. & l. 3. Co de prescript. 30. annorum*: so in our common law, though actions may bee called perpetuall in comparison of those that be expressly limited by statute: yet is there a meanes to prescribe against reall actions within five yeares, by a fine levied, or a recoverie acknowledged, as you may see farther in the word, Fine, and Recoverie. And for this also looke Limitation of a life.

Action is farther divided, in *actionem bona fidei & stricti juris*. Which division hath good use in our common law likewise, though the tearmes I find not in any of their writers. But of this, and such like divisions, because they have as yet no apparent acceptance amongst our Lawyers, but onely a hidden use, I referre the reader to the Civillians, and namely to *Wesemb.* in his Paratitles. *π. De obligatio. & actio.*

Addition (*additio*) is both the English and French word made of the Latine, and signifieth in our common law a title given to a man over and above his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c. For the use wherof in originall writs

of actions personall, appeales, and indictments, it is provided by Statute anno 1. H 5. cap. 5. upō the penalties therein expressed. Tearmes of the law. Broke farther adderth, that it is likewise requisite in townes, and gates of townes; parishes in great townes and cities, where there may bee any doubt, by reason of more townes, gates, or parishes of the same name, *titulo Addition*. See also *M. Cromptons* Justice of peace, fol. 95. 96.

Adeling was a word of honor among the *Angles*, properly appertaining to the Kings children, whereupon King Edward being himselfe without issue, and intending to make Eadgare (to whom hee was great Uncle by the mothers side) his heire to this kingdom, called him Adeling. *Roger Hovedine, parte poster. suorum Annal fol. 347. a.*

Adjournment (*adjournamentum*) is almost all one with the French (*ajournement. i. denunciacio vel dies dictio*) and signifieth in our common law an assignement of a day, or a putting off untill another day, *Adjournment in eyre*, (anno 25. Ed. 3. Statute of pourveyers, cap. 18.) is an appointment of a day, when the Iustices in eyre meane to sit againe. *Adjourn.* anno 2. Edw. 3. cap. 11. hath the like signification. And this whole title in Broke his abridgement

ment proveth the same. The bastard Latine word (*adjurnamentum*) is used also among the Burgundians, as *M. Skene* noteth in his booke *De verbo signi. verbo, Adjurnatus*, out of *Cassanens de consuet. Burg.*

Ad inquirendum, is a writ judiciall, commanding inquirie to be made of any thing touching a cause depending in the Kings court, for the better execution of justice, as of bastardie, of bondmen, and such like: whereof see great diversitie in the Table of the Register judiciall, *verbo, Ad inquirendum.*

Admeasurement (admensuratio) is a writ, which lyeth for the bringing of those to a mediocrity, that usurpe more then their part. And it lyeth in two cases: one is termed admeasurement of dower (*admensuratio dotis*) where the widow of the deceased, holdeth from the heire or his guardian more in the name of her dower, then of right belongeth unto her. *Register orig. fol. 171. a. Fitzh. nat. br. fol. 148.* The other is admeasurement of pasture (*admensuratio pasture*) which lieth betweene those, that have common of pasture appendant to their free-hold, or common by vicinage; in case any one of them, or more, doe surcharge the common with more cattell then they ought,

Register. orig. fol. 156. b. Fitzh. nat. br. fol. 125.

Administer (administrator) in our common law is properly taken for him, that hath the goods of a man dying intestate, committed to his charge by the ordinary, and is accountable for the same, whensoever it shall please the ordinarie to call him thereunto. I finde not this word so used in all the civill or canon law, but more generally for those, that have the goverment of any thing, as the Decrees. *can. 23. quest. 5. c. 26. Administratores plane secularium dignitatum, &c. and extra. can. ca. 11. Grangias autem, & alia loca Cisterciensium ordinis, & aliorum Regalium, in quibus Gubernatores, seu custodes vel administratores ponuntur, &c.* Howsoever the signification of this word grew to bee restrained amongst us, it greatly booteth not. But there was a statute made *anno 31. Ed. 3. ca. 11.* whereby power was given to the ordinarie to appoint these administrators, and to authorize them as fully as executors, to gather up, and to dispose the goods of the deceased: alway provided, that they should be accountable for the same, as executors. And before that, *viz. Westm. 2. anno 13. Ed. 1. ca. 19.* it was ordeined, that the goods of those that died intestate, should be committed to

the ordinarie his disposition, and that the ordinarie should bee bound to answer his debts, so far forth as the goods would extend, as executors. And I perswade my selfe that the committing of this burden vnto Bishops, and to those that derive ecclesiasticall authoritie from them, grew first from the constitution of *Leo* the Emperour. *Co. de Episco. & cleri. l. nulli licere. 28.* Where it is said, that if a man dying, bequeath any thing to the redeeming of captives, &c. and appoint one to execute his will in that point, the partie so appointed shall see it performed: and if hee appoint none to doe it, then the Bishop of the citie shall haue power to demaund the legacie, and without all delay performe the will of the deceased.

Admirall (*Admiralius*) cometh of the french (*amerall*) and signifieth, both in France and with vs, an high officer or magistrate that hath the gouernement of the Kings navie, and the hearing and determining of all causes, as well civil as criminall belonging to the sea. *Cromptons diuers iurisd. fo. 88.* and the statutes *anno. 13. R. 2. ca. 5. & anno. 15. ejusdem ca. 3. & an. 2. H. 4. c. 11. & anno 2. H. 5. ca. 6. & an. 28. H. 8. ca. 15.* with such like. This officer is in all kingdomes of Europe that border vpon the sea: and his autho-

ritie in the kingdome of Naples is called, *magna Curia Admiraria que habet jurisdictionem in eos qui viuunt ex arte maris.* *Vincent de Franch. descif. 142. nu. 1.* This Magistrate among the Romanes was called *praefectus classis*, as appeareth by *Tully in Verrem 7.* but his authoritie was not continuall, as the Admirals is in these daies, but onely in time of warre. Neither doe I finde any such officer belonging to the Emperours in our Code. And *M. Guyn* in the preface to his reading, is of opinion that this office in England was not created vntill the daies of *Edward* the third: His reason is probable. *Britton* that wrote in *Edm.* the firsts time, and in the beginning of his booke taking vpon him to name all the courts of Iustice, maketh no mention of this court or Magistrate. And againe *Richard* the second finding the Admirall to extend his jurisdiction over farre, ordeined by statute made the 10. yeare of his reigne, that the limits of the Admirals jurisdiction should be restrained to the power hee had in his grandfather *Edward* the thirds daies, whereby the said *Master Guyn* conjectureth that hee did nought els but reduce him to his originall. But contrarily to this it appeareth by auncient records, the copies whereof I have seene, that not onely in the daies of

Ed. the first, but also of King *Iohn*, all causes of Merchants and mariners, and things happening within the fludde marke, were ever tried before the Lord Admirall.

Ad inra Regis, is a writ for the Kings Clarke against him that seeketh to eiect him to the prejudice of the Kings title in the right of his crowne. Of this you may see divers formes vpon diuers cases. *Register. orig. fo. 61. a.*

Admittendo clerico, is a writte graunted to him that hath reco- uered his right of presentation against the Bishop in the com- mon bank: the forme whereof read in *Fitzh. nat. br. fo. 38. & the Register. orig. fol. 33. a.*

Admittendo in socium, is a writ for the association of certaine persons to Iustices of assises formerly appointed. *Register orig. fol. 206. a.*

Ad quod damnum, is a writ that lyeth to the escheater to inquire what hurt it will be to the King, or other person, to graunt a Faire or market, or a mortmaine for any lands intended to be given in fee simple to any house of religion, or other body politieke. For in that case, the land so given is said to fall into a dead hand, that is, such an estate and condition, that the chiefe Lords doe leese all hope of heriots, service of court, and escheates vpon any traite-

rous or felonious offence com- mitted by the tenant. For a bodie politicke dieth not, neither can performe personall service, or commit treason or felonie, as a singular person may. And therefore it is reasonable, that before any such grant be made, it should be knowne, what pre- iudice it is like to worke to the graunter. Of this reade more in *Fitzh. nat. br. fol. 221.* and look *Mortmaine.*

Ad terminum qui preterit, is a writ of entrie, that lyeth in case where a man having leased lands or tenements for terme of life or yeares, and after the terme expired, is held from them by the tenant, or other stranger that oc- cupieth the same, and deforeeth the lessour. Which writ belon- geth to the lessour and his heire also, *Fitzh. nat. br. fol. 201.*

Aduent (aduentus) is a certaine space of time comprising a mo- neth or thereabout, next before the feast of Christs nativitie. Wherein it seemeth that our an- cestors reposed a kind of reue- rence for the newrenesse of that solemne feast: so that all conten- tions in lawe were then remitted for a season. Whereupon there was a statute ordained. *Westm. 1. cap. 48. anno 3. Ed. 1.* that not- withstanding the said usuall so- lemnitie and time of rest, it might be lawfull in respect of iustice

justice and charity, which ought at all times to be regarded) to take assises of *venell disseisin*, *mort d'auncester*, and *darrein presentment*, in the time of Advent, Septuagesima, and Lent. This is also one of the times; from the beginning whereof vnto the end of the Octaves of the Epiphany, the solemnizing of marriage is forbidden, by reason of a certain spirituall ioy that the church, & so consequently every member thereof, for that time, doth on ought to conceite in the remembrance of her spouse Christ Iesus, and so abandon all affections of the flesh. See Rogation weeke, and Septuagesima.

Advocatione decimarum, is a writ that lyeth for the claime of the fourth part or vpward, of the tythes that belong to any Church, *Register orig. fol. 29 b.*

Advow, aliàs *avowe* (*advocare*) commeth of the French (*advouier*, aliàs *avouier*, and signifieth as much as to iustifie or maintaine an act formerly done. For example, one taketh a distresse for rent or other thing, and he that is distressed, sueth a Replevin. Now he that tooke the distresse, or to whose use the distresse was taken by another, iustifying or maintaining the act, is said to avowe. *learnes of the lawe.* Hereof commeth *advowant*, *Old. nat. br. fol. 43.* and *advowrie*, *codem folio.*

Bracton useth the Latine word in the same signification, as (*advocatio disseisine*) *li. 4. cap. 26*. And I find in *Cassanens de consuet. Burg. par. 1210* (*advohare*) in the same signification, and pag. 1213. the Substantive (*desavohamentum*) for a disavowing or refusal to avowe.

Advowzen (*advocatio*) signifieth in our common law a right to present to a benefice, as much as *ius patronatus*) in the canon lawe. The reason why it is so tearmed, proceedeth from this, because they that originally obtained the right of presenting to any Church, were maintainers and vpholders, or great benefactors to that Church, either by building or increasing it: and are thereupon tearmed sometime *patroni*, sometime *Advocati*, *cap. 4. & cap. 23. de iura patronatus in Decretal.* And *advowzen* being a bastardly French word is vied for the right of presenting, as appeareth by the Statute of *Westm.* the second anno 13. *Ed. 1. ca. 5.*

Advowzen is of two sorts: *advowzen in grosse*, that is, sole or principall, not adhering or belonging to any maner as parcell of the right thereof: *advowzen dependant*, which dependeth vpon a maner as appertinent vnto it, tearmed of *Kuchin* an incident, that may be separated from the subiect. Of this *M. Iohn Skeene* de

de verbo. sig. hath these words : *dicatur advocatio Ecclesie, vel quia patronus alicujus Ecclesie ratione sui juris advocat se ad eandem Ecclesiam, & asserit se in eadem habere jus patronatus, eamque esse sui quasi clientis loco, vel potius cum aliquo (nempe patrono) advocat alium jure suo ad Ecclesiam vacantem, eamque loco alterius (veluti defuncti) presentat & quasi exhibet.* See *Advowè* next following :

Advowè, alias avowè (advocatus) is used for him that hath right to present to a benefice, *an. 25. Ed. 3. stat. 5. ca. unico.* There have you also (*Advowè paramount*) which is as much as the highest patron, and is spoken of the King. *Advocatus est ad quem pertinet jus avocationis alicujus ecclesie, ut ad ecclesiam, nomine proprio non alieno, possit presentare.* *Fleta l. 5. ca. 14. §. 1. Fitzh. in his nat. br. fo. 39.* useth it in the same signification. See *Advowson*. & *Avowè*.

Etate probanda, is a writ that the Kings tenent holding in chiefe by chivalrie, and being ward by reason of his nonage, obtaineth to the eschetour of the countie where hee was borne, or some time, where the land lyeth, to enquire, whether he be of full age to have deliverie of his lands into his own hand. *Register orig. fo. 294. & 295. Fitzh. nat. br. fo. 253.* Who also *fo. 257.* saith that this writ is sometime dire-

cted to the Sheriffe to empanell a Jury for this inquirie against a day certaine, before Commissioners authorized under the broad seale to deal in such a cause.

Aerie of Goshawkes (*aëria accipitrum*) commeth from the french (*aïere*) signifying so much as (*pair*) in latine, or (*a paire*) in English. For the French man saying that one is (*un homme de bonn aïere*) signifieth that he commeth of a good paire, that is, a good father and a good mother. It is in our language the proper word in hawkes, for that which we generally call a nest in other birds. So is it used *anno 9. H. 3. c. 13.* in the charter of the forest, and in divers other places.

Affeerours (*afferatores, alias affidati*) may probably bee thought to proceed from the french (*affier. i. confirmare, affirmare.*) It signifieth in our common law, those that be appointed in Court leets, &c. upon oath to mulct such as have committed faults arbitrably punishable, and have no expresse penalty set downe by statute. The forme of their oath you may see in *Kitchin. fo. 46.* The reason of this appellation may seeme to be, because they that be appointed to this office, doe affirme upon their oathes, what penaltie they thinke in conscience the offendour hath deserved. It may likewise proba-

bly be thought, that this com-
meth from (*feere*) an old english
word, signifying a companion, as
(*gesfora*) doth among the Sax-
ons by *M. Lamberds* testimonie,
verbo (conubernalis) in his expli-
cation of Saxon words. And so it
may be gathered that *M. Kit-
chin* taketh it. *ca. Amercements.*
fo. 78. in these words, (*Mas sile a-
mercement soit affire per pares*)
where (*pares*) be put for assurers.
And there may be good reason
of this, because they are in this
business made companions and
equals. You shall find this word
used *an. 25. Ed. 3. sta. 7. viz.* And
the same Iustices before their ri-
sing in every sessions, shall cause
to be assured the amercements,
as pertaineth, and also to the same
effect, *an. 26. H. 8. ca. 6. Kitchen fo.*
78. joyneth these 3 words toge-
ther as *synonyma*. (*Affidati, amer-
ciatores, assirours.* *Affidare* in the
canon law is used for *fidei dare.*
*ca. fina. de cognatio, spiritua. in De-
cretal. & ca. super eo. de testibus.*
Bracton bath *affidare mulierem*, for
to be betrothed to a woman. *li.*
2. ca. 12. But I find in the custo-
marie of Normandy, *ca. 20.* this
word (*asseurer*) which the latine
interpretour expresseth by (*tax-
are*) that is, to set the price of a
thing, as (*astimare, indicare, &c.*)
which etymologie of all the o-
ther pleaseth mee best, leaving e-
very man to his own judgement.

Affirme (affirmare) commeth
either of the latine, or french
(*affirmer*) It signifieth in our com-
mon law, as much as to ratifie or
approve a former law, or judge-
ment. So is the Substantive (*affir-
mance*) used *an. 8. H. 6. ca. 12.* And
so is the verb it selfe by *M. West.*
parte 2. symbolat. titulo, Fines. sect.
152. And if the judgement be af-
firmed, &c. as also by *M. Cromp-
ton* in his divers *Iurisd. fo. 166.*

Afforest (afforestare) is to turne
ground into forest. *charta de fore-
sta. c. 1. & 30. an. 9. H. 3.* What that
is, look more at large in *Forest.*

Affraye (affricia) commeth of
the french (*effraier. i. horrificare,
terrere*) It signifieth in our com-
mon law a skirmish, or fighting
betweene two or more. *M. Lam-
berd* in his *eironarcha. lib. 2. cap. 3.*
saith, that it is often times con-
founded with an assault, but yet
hee is of opinion that they differ
in this, that where an assault is
but a wrong to the party, an af-
fray is a common wrong: and
therefore both enquirable and
punishable in a Leet. It might
be said likewise, that an assault is
but of one side, and an affray of
two or more. I thinke this word
(*affray*) to be two wayes used:
one, as I have already described
it: another, for a terror wrought
in the subjects by any unlawfull
sight of violence, or armor, &c.
tending toward violence. For so

is it used, *anno 2. Ed. 3. cap. 3.*

Age (aetas) commeth from the French (*aage*) and signifieth in our language that part of a mans life, which is from his birth unto his last day. But it is in the common Law particularly used for those especiall times, which enable men or women to doe that, which before for want of age, and so consequently of judgement, they might not doe. And these times in a man be two, in a woman six. The age of 21. yerres is tearmed the full age in a man, the age of fourteene yerres, the age of discretion, *Littleton lib. 2. ca. 4.* In a woman there are sixe severall ages observed, that severally enable her to doe sixe severall things, *Broke. Gard. 7.* First, at 7. yerres of age the Lord her father may distraine his tenents for ayde to marry her: for at those yerres shee may consent to matrimonie, *Braet. lib. 2. cap. 36. nu. 3.* Secondly, at the age of nine yerres shee is dowable: for then, or within halfe a yere after, is she able *promereri dotem & virum sustinere*, *Fleta lib. 5. cap. 22. Littleton li. prim. cap. 5.* which *Braet. loco citato* doth notwithstanding limit at 12 yerres. Thirdly, at twelve yerres shee is able finally to ratifie and confirme her former consent given to matrimonie. Fourthly, at 14. yerres shee is enabled to receive her land

into her owne hands, and shall be out of ward, if shee be of this age at the death of her Ancestor. Fifthly, at sixteene yerres she shall bee out of ward, though at the death of her Ancestor shee was within the age of fourteen yerres. The reason is, because then shee may take a husband able to performe Knights service. Sixtly, at 21. yerres shee is able to alienate her lands and tenements, *Instit. jure com. cap. 24.* Touching this matter, take further these notes perspicuously gathered. At the age of 14. yerres a striplin is enabled to chuse his owne guardian, and to claime his land holden in socage, *Dyer fol. 162.* which *Braet. loco citato* limiteth at fifteene yerres, *li. 2. cap. 37. num. 2.* with whom *Glanville* also agreeth, *lib. 7. cap. 9.* And at the age of fourteene yerres, a man may consent to mariage, as a woman at 12. *Braet. ubi supra.* At the age of fifteene yerres, a man ought to be sworne to keepe the Kings peace, *anno 34 Edw. 1. Stat. 2.* The age of 21. yerres compelleth a man to be Knight, that hath twentie pounds land *per annum* in fee, or for tearme of life, *anno 1 Edw 2 stat. 1.* and also enableth him to contract and to deale by himselte, in all lawfull causes appertaining unto his estate. Which untill that time he cannot, with the security of those that deale with him.

This the Lombords settle at 18. yeares, as appeareth by *Hoto-mans* disputations in *libros feudorum*, l. 2. c. 53. ver. *decimo. octavo anno*. which power the Romans permitted not *vsque ad plenam maturitatem*, and that they limited at 25. yeares. *lib. 1. in fine. π. de maior. 25. ann. l. fin. Co. de Legit. tut. in principio, titulo de curat. in Institut.* The age of twelue yeares bindeth to appearance before the Sheriffe and Coroner for enquirie after Robberies, *ann. 52. H. 3. cap. 24.* The age of 14. yeares enableth to enter an order of religion without consent of parents, &c. *anno 4. H. 4. cap. 17.*

Age prier (atatem precari) or (*atatis precatio*) is a petition made in count by one in his minoritie, having an action brought against him, for lands coming to him by discent, that the action may rest untill hee come to his full age: which the Court in most cases ought to yeeld unto. This is otherwise in the Civill law, which inforceth children in their minoritie to answer by their tutors or curatours, *π de minor. 25. an.*

Agenhine. See *Hughenhine.*

Agist (agistare) seemeth to come of the French (*gist. i. iacet*) having (*gisir*) in the Infinitive moode, whence commeth the no vne (*gisme*) a lying in child-bed: or rather of (*gister. i. stabulari*) a word proper to a Deare,

cum sub mensem Maium e locis abditis in quibus delituit emigrans, in loco delecto stabulari incipit, unde comoda & propinqua sit pabulatio. *Budaus* in posteriori libro philologia. Where also he saith, that (*giste*) est idem quod *lustrum* vel *cubile*. Or it may bee probably deduced from the Saxon word (*Gast. i. hospes.*) It signifieth in our common law, to take in and feede the cattell of strangers in the Kings forest, and to gather the money due for the same to the kings use, *Charta de Foresta, an 9. H. 3. cap. 9.* The Officers that doe this, are called (*agistors*) in English, Guest-takers, *eodem cap. 8. Cromptons iurisdic. fo. 146.* These are made by the Kings Letters patents under the great Seale of England: of whom the King hath foure in number within every Forest, where he hath any pawnage, called *agistors*, or Gift-takers. And their office consisteth in these foure points: (*in agistando, recipiendo, imbreuiando, certificando*) *Manwood parte prima.* Of Forest lawes, p. 336. & 337. whom you may reade more at large. Their function is tearmed *Agistment*, as *agistment* upon the sea banks, *anno 6. H. 6. cap. 5.*

Agreement (agreementum. i. aggregatio mentium) is the assent or concord of more to one thing: & this by the authour of the new tearmes of law, is either executed

ted or executory: which you may reade more at large in him exemplified by cases.

Ayde (*auxilium*) is all one in signification with the French (*aide*) and differeth in nothing, but the only pronounciation, if we take it as it is used in our vulgar language. But in the common lawe, it is applied to divers particular significations, as sometime to a subsidie, *anno 14. Ed. 3. stat. 2 ca. 1.* sometime to a prestation due from tenants to their Lords, as toward the reliefe due to the Lord Paramount, *Glawrile li. 9. cap. 8.* or for the making of his sonne Knight, or the marrying of his daughter, *idem, eodem.* This the King, or other Lord by the ancient Law of England, might lay upon their Tenents, for the Knighting of his eldest sonne at the age of 15. yeares, or the marriage of his daughter at the age of seven yeares, *Regist. orig. fol. 87. a.* and that at what rate themselves listed. But the statute, *Westm. 1. anno 3. Ed. 1.* ordained a restraint for so large a demand, made by common persons being Lords, in this case, and tyed them to a certaine rate. And the Statute made *anno 25. Ed. 3. stat. 5. cap. 11.* provideth, that the rate set downe by the former Statute, should hold in the King, as well as in other Lords. Of this I find mention in the Statute, *an-*

27. H. 8. cap. 10. This imposition seemeth to have descended to us from Normandie: for in the grand custumarie, *cap. 35.* you have a Tractate intituled (*des aides chevelz. i. de auxiliis capitalibus*) whereof the first is (*a faire l'ainé filz de son seigneur chevalier. i. ad filium primogenitum militem faciendum*) the second, (*son ainee fille marier. i. ad filiam primogenitam maritandam.*) And the third, (*arechapter le corps de son seigneur de prison quand il est prius per la guerre au Duc. i. ad corpus domini sui de prisona redimendū cum captus fuerit pro bello Ducis Normandie.* Also I find in *Cassanau de cōsuet. Burg. Quod dominus accipit à subditis pro dotanda filia, pa. 122.* which seemeth to bee all one with this our imposition: and also in *Vincentius de Franchis descif. 131.* where hee calleth it *adjutorium pro maritande Filia.* Whence it appeareth, that this custome is within the kingdome of Naples also. Touching this likewise, you may reade these words in *Menochius, lib. 2. de arbitrat. Ind. quest. centuria. 2. cap. 181. Habent sapissime feudorum possessores & Domini multa in eorum ditionibus privilegia, multa q̃q̃ cum locorum incolis conventiones: inter quas, illa una solet nominari, ut possit Dominus collectam illis indicare pro solutione dotium suarum filiarū, cum matrimonio collocantur.*

Hoc aliquando Roma observatū à Caligula fuisse, in illius vita scribit Suetonius, cap. 42. Hodie hic usus in subalpina regione est frequens, ut scribit Iacobinus de Sancto Georgio, in tractu de homagiis. col. 8. Etiam pro filia quæ religionem ingreditur: & non modo pro una filia, sed pluribus filiabus, non tamen pro secundis nuptiis exigitur. In which place, the said author maketh mention of divers other Civilians and feudists, that record this custome to be in other places. Of this ayde, our *Fleta* writeth thus: *sicut etiam quedam consuetudines quæ servitia non dicuntur, nec cōcomitantia servitiorum, sicut rationabilia auxilia ad filium primogenitum militem faciendū, vel ad filiam primogenitam maritandam: quæ quidem auxilia sunt de gratia & non de jure, pro necessitate & indigentia domini capitalis. Et non sunt prädialia sed personalia, secundum quod perpendi poterit in brevi ad hoc provisio, &c.*

This word (*ayde*) is also particularly used in matter of pleading, for a petition made in court for the calling in of helpe from another, that hath an interest in the cause in question, and is likely both to give strength to the party that praieth in ayde of him, and also to avoid a prejudice growing toward his own right, except it be prevented. For example: when a tenent for terme of life, by courtesie, tenent in

taile after possibility of issue extinct, for tearme of yeares, at will, by elegit, or tenent by statute merchant being impleaded touching his estate, may *petere auxilium*, that is, pray in ayde of him in the reversion (that is) desire or intreat the Court, that hee may be called in by writ, to alledge what he thinketh good for the maintainance both of his right, and his owne. Termes of the law. *Fitzh.* mentioneth both (*prier en ayde*) and (*prier ayde de patron, &c.*) *auxilium petere à patrono*, nat. br. fol. 50. d. and the new booke of entries, verbo, *Ayde de parcener, auxilium de parcionario*, fol. 411. column 4. This the later practitioners in the civill law, call *authoris laudationem vel nominationem*. *Emericus in pract. titulo 48.* This *ayde prier*, is also used sometime in the Kings be-hoofe, that there be no proceeding against him, untill the Kings Councell be called, and heard to say what they thinke good, for the avoyding of the Kings prejudice or losse, touching the cause in hand. For example: if the kings tenent holding in chiefe, bee demanded a rent of a common person, hee may pray in ayde of the King. Also a citie or borough that hath a fee ferme of the King, any thing being demanded against them which belongeth thereunto, may pray in ayde of the

the King, &c. Terms of the law. Of this thing you may reade the statute (*de bigamis. a. 4. Ed. 1. ca. 1. 2. & 3. & an. 14. Ed. 3. stat. 1. ca. 14.*) The civill law in suits begun betweene two, alloweth a third to come in (*pro interesse*) and he that commeth in for his interest, commeth either *assistendo* or *opponendo* &c. The former is like to this (*ayde prier*) the other to that which our common lawyers call *Receite*. Looke *Receite*.

Ale (*avo*) commeth of the French (*aieul. i. avus*) & signifieth a writ that lieth where the grandfather or great grandfather, called of our common lawyers (*besayle*) but in true french (*bisaiel*) was seised in his demaines as of fee, of any land or tenement in fee simple, the day that he dyed, and a stranger abateth or entreth the same day, and dispossesseth the heire. *Fitzh. nat. br. fo. 222.*

Alderman (*aldermannus*) is borrowed from the Saxon (*Ealderman*) signifying as much as Senator in latine. *Lamb* in his explication of Saxon words. *verbo senator*. See *Roger Hoveden par. poster. suorum. annal. fo. 346. b.*

Aler sans jour, is *verbatim*. to goe without day: the meaning wherof is, to be finally dismissed the Court: because there is no day of farther appearance assigned, *Kitchin fo. 140.*

Ale-tastor, is an officer ap-

pointed in every Court leet, and sworne to looke to the assise, and the goodnesse of bread and ale, or beere, within the precincts of that Lordship. *Kitchin fo. 46.* where you may see the forme of his oath.

Alias v. Capias alias.

Alien (*alienare*) commeth of the French (*aliener*) and signifieth as much as to transerre the propertie of any thing unto another man. To *alien* in *mortmaine*, is to make over lands or tenements to a religious companie, or other body politick. *Stamf. prero. f. 48.* looke *Mortmaine*. To *alien* in fee, is to sel the fee simple of any land or tenement, or of any incorporeall right, *West. 2. ca. 25. anno 13. Ed. 1.*

Alien alias alion (*alienigena*) commeth of the latine (*alienus*) and signifieth one borne in a strange countrey. It is ordinarily taken for the contrary to (*Denizen*) or a naturall subject, that is, one borne in a strange country, and never here enfranchised. *Broke Denizen. 4. &c.* And in this case, a man borne out of the land, so it be within the limits of the Kings obedience, beyond the seas, or of english parents, out of the Kings obedience (so the parents at the time of the birth, be of the Kings allegiance) is no alien in account, but a subject to the King, *Statute 2. a. 25. Ed. 3. c.*

unico, commonly called the Statute, *De natis ultra mare*. Also if one borne out of the Kings allegiance, come and dwell in England, his children (if hee beget any here) be not aliens, but denizens. Termes of the law. See *Denizen*.

Allays (*Allaia*) is used for the temper and mixture of silver and gold, anno 9. H. 5. Stat. 2. cap. 4. & Stat. 1. ejusdem anni, cap. 11. The reason of which allay is, with a baser mettall to augment the waight of the silver or gold so much, as may countervaile the Princes charge in the coining. *Antonius Faber. de nummariorum debitorum solutionibus*, cap. 1.

Allocatione facienda, is a writ directed to the Lord Treasurer, and Barons of the Exchequer, upon complaint of some accountant, commanding them to allow the accountant such sums, as hee hath by vertue of his office lawfully and reasonably expended, *Register orig. fol. 206. b.*

Alluminor, seemeth to be made of the French (*allumer*, i. *accendere*, *incendere*, *inflammare*) it is used for one that by his trade coloureth or painteth upon paper or parchment. And the reason is, because he giveth grace, light, and ornament by his colours, to the letters or other figures coloured. You shall find the word, *an. 1. R. 3. ca. 9.*

Almaine rivets, be a certaine light kind of armor for the body of a man, with sleeves of maile, or plates of iron for the defence of his armes. The former of which words, seemeth to shew the countrey where it was first invented: the other, whether it may come from the French verb (*revestir*, i. *superinduere*) to put on upon another garment, I leave to farther consideration.

Almner (*eleemosinarius*) is an officer of the Kings house, whose function is, *fragmenta diligenter colligere, & ea distribuere singulis diebus egenis: agrotos & leprosos, in carceratos, pauperesq; viduas, & alios egenos vagosq; in patria commorantes, charitative visitare: item equos relictos, robas, pecuniam, & alia ad eleemosynam largita, recipere & fideliter distribuere. Debet etiam regem super eleemosyna largitione crebris summonitionibus stimulare, & precipue diebus Sanctorum, & rogare ne robas suas quae magni sunt pretii, histrionibus, blanditoribus, adulatoribus, accusatoribus vel mensestrallis, sed ad eleemosinae suae incrementum jubeat largiri*, *Fleta. lib. 2. cap. 22.*

Almoine (*eleemosina*.) See *Frank almoine*.

Almond (*amygdalum*) is well knowne to every mans sight: it is the kernell of a nut or stone, which the tree in Latine called (*amygdalus*) doth beare with-

within a huske in manner of a wal-nut, of whose nature, and diversities, you may reade *Gerards Herball lib. 3. cap. 87.* This is noted among Merchandize that are to be garbled, *anno 1. Iaco. cap. 19.*

Alnegeor, aliàs, aulnegeor (vlniger vel vlnator) commeth from the French (*aulne*) an elle, or elwand, and signifieth an Officer of the Kings, who by himselfe or his Deputie, in places convenient, looketh to the Assise of woollen cloth made through the land, and to scales for that purpose ordained unto them, *ann. 25. Ed. 3. Stat. 4. cap. 1. anno 3. R. 2. cap. 2.* who is accomptable to the King for every cloth so sealed in a fee or custome thereunto belonging, *anno 17. R. 2. cap. 2.* Reade of this more, *anno 27. Ed 3 cap. 4. anno 17. R. 2. cap. 2. & 5. anno 1. H. 4. cap. 13. anno 7. ejusdem cap. 10. anno 11. ejusd. cap. 6. anno 13. ejusd. cap. 4. anno 11. H. 6. cap. 9. anno 31. ejusdem cap. 5. anno 4. Ed. 4. ca. 1. anno 8. ejusdem cap. 1. & an. 1. R. 3. cap. 8.*

Ambidexter, is that jurour or embraceour, that taketh of both parties for the giving of his verdict. Hee forfeiteth ten times so much as he taketh, *anno 38. Edw. 3. cap. 12. Cromptons Iustice of Peace, fol. 156. b.*

Amendment (emendatio) commeth of the French (*amendement*) and signifieth in our com-

mon Law, a correction of an error committed in a Proesse, and espied before judgement. Termes of the Law. *Broke titulo Amendment per totum.* But if the fault be found after judgement given: then is the party that wil redresse it, driuen to his writ of error. Termes of the lawe, *Broke titulo Error.*

Amerciament (amerciamentum) signifieth the pecuniarie punishment of an offender against the King or other Lord in his court, that is found to be (*in misericordia*) i. to haue offended, and to stand at the mercie of the King or Lord. There seemeth to be a difference betweene amerciaments and fines, *Kitchin fol. 214.* And I haue heard common Lawyers say, that fines, as they are taken for punishments, be punishments certaine, which grow expressly from some statute, and that amerciaments be such, as be arbitrably opposed by affectors. This is in some sort confirmed by *Kitchin fol. 78.* in these words: (*l'americiament est assise per pares.*) *M. Manwood* in his first part of Forest lawes. *pag. 166.* seemeth to make another difference, as if he would inferre an amerciament to be a more easie, or more mercifull penaltie, and a fine more sharpe and grievous. Take his wordes: If the pledges for such a trespassse (saith he) doe appeare

by common summons, but not the defendant himselfe: then the pledges shall be imprisoned, for that default of the defendant: but otherwise it is, if the defendant himselfe do appeare, and be ready in Court before the Lord Iustice in *eyre*, to receiue his judgement, and to pay his fine. But if such pledges do make default, in that case the pledges shall be amerced, but not fined, &c. The author of the new tearmes of lawe, saith, that amerciamment is most properly a penalty assessed, by the peeres or equals of the partie amerced for an offence done, for the which he putteth himselfe vpon the mercie of the Lord. Who also maketh mention of an amerciamment royal, and defineth it to be a pecuniarie punishment laid vpon a Sheriffe, Coroner, or such like Officer of the Kings, amerced by Iustices for his offence. See *Misericordia*.

Amoveas manum. Looke on *ster le maine*.

An, tour, & waste (*annus, dies, & vastum.*) Looke yeare, day, and waste.

Anealing of tile, anno. 17. Ed. 4. ca. 4.

Annats, (*Annates*) seemeth to be all one with *first fruites*. anno. 25. H. 8. ca. 20. looke, *First fruites*. The reason is, because the rate of first fruites payed of spirituall livings, is after one yeares profite:

Of which *Polydore Virgil*, *de inuentione rerum*, lib. 8. cap. 2. saith thus: *Nullum inuentum maiores Romano Pontifici cumulavit opes, quam annatum (quas vocant) usus, qui omnino multo antiquior est, quam receptiores quidam scriptores suspicantur. Et annates more suo appellant primos fructus unius anni sacerdotii vacantis, aut dimidiam eorum partem. Sanè hoc veltigal iam pridem, cum Romanus Pontifex non habuerit tot possessiones quot nunc habet, & cum oportuerit pro dignitate, pro officio, multos magnosq; facere sumptus, paulatim impositum fuit sacerdotiis vocantibus quæ ille conferret: de qua quidem re ut gravi, sape reclamatum fuisse testatur Henricus Hostiensis, qui cum Alexandro 4. Pontifice vixit, sic ut Franciscus Zabarellus tradat post hac in concilio Viennensi, quod Clemens quintus indixit (qui factus est Pontifex anno salutis humane, 135.) agitatum fuisse, ut, eo deposito, annatum onere vigesima pars veltigalium sacerdotalium penderetur quotannis Romano Pontifici, & id quidem frustra. Quare Pontifex annatas in sua massa retinuit, ut ne indidem exire possent: lege cetera.*

Anniented, commeth of the French (*aneantir*. i. *se abjicere, atque prosternere*) It signifieth with our lawyers, as much as frustrated or brought to nothing. *Littleton*, lib. 3. cap. warrantie.

Annua pensione, is a writt, whereby

wherby the King having due unto him an annuall pension from an Abbot or Prior for any of his Chaplaines, whom he shall think good to name unto him, being as yet unprovided of sufficient living, doth demand the same of the said Abbot or Prior for one, whose name is comprised in the same writ, untill, &c. and also willeth him, for his Chaplaines better assurance, to give him his Letters patents for the same. *Register orig. fol. 265. & 307. & Fitzh. nat. br. fol. 231.* where you may see the names of all the Abbeyes and Priories bound unto this, in respect of their foundation or creation: as also the forme of the Letters patents usually granted upon this writ.

Annuite (annuus redditus) signifieth a yearly rent to be paid for terme of life or yeares, or in fee, and is also used, for the writ that lieth against a man for the recoverie of such a rent, either out of his land, or out of his coffers, or to be received of his person, at a day certaine every yeare, not satisfying it according to the grant, *Register origin. fol. 158. Fitzh. nat. br. fol. 152.* The author of the new termes of law defineth (*annuite*) to be a certaine summe of money granted to another in fee simple, fee taile, for tearme of life, or of yeares, to receive of the granter, or his

heires, so that no Free-hold be charged therewith, whereof a man shall never have assise or other action, but a writ of Annuite. *Saintgerman* in his booke intituled (*The Doctor and Student*) *dialago primo, cap. 3.* sheweth divers differences betweene a rent and an annuite, whereof the first is, that every rent, be it rent service, rent charge, or rent seck, is going out of land: but an annuity goeth not cut of any land, but chargeth onely the person: that is to say, the granter, or his heires that have assets by descent, or the house, if it be granted by a house of religion, to perceive of their coffers. The second difference is, that for the recoverie of an annuity, no action lieth, but onely the writ of annuity against the granter, his heires, or successors: but of a rent, the same actions lye as doe of land, as the case requireth. The third difference is, that an annuity is never taken for assets, because it is no Free-hold in law, neither shall be put in execution upon a statute Merchant, statute Staple, or Elegit, as a rent may. *Dyer fol. 345. num. 2.* speaketh also to this effect.

Anise seede (samen anisi) is a medicinall seed not unknowne, so called of the hearbe *anisum*, whereof it is the fruit. Of this hee that listeth may reade *Gerards*

rards herball. li. 2. ca. 397. It is noted among the garbleable drugs and spices, anno 1. Iaco. ca. 19.

Anoifance, aliàs *Noifance*, aliàs *Nufance* (*nocumentum*) commeth of the French (*nuifance*. i. *incommodum*, *noxa*) and hath a double fignification, being used as well for any hurt done either to a publike place, as (high way, bridge, or common river) or to a private, by laying any thing, that may breed infection, by incroaching, or fuch like means: as alfo, for the writ that is brought upon this transgression: whereof fee more in *Nufance*. The word (*anoyfance*) I find, anno 22. H. 8. cap. 5.

Apoftata capiendo, is a writ that lyeth againft one, that having entered and professed fome order of religion, breaketh out againe, and wandereth the country, contrarily to the rules of his order. For the Abbot or Prior of the houle, certifying this into the Chauncerie, under their common feale, and praying this writ directed to the Sheriffe for the apprehenfion of fuch offendour, and for the delivery of him againe to his Abbot or Prior, or their lawfull Attourney, were wont to obtaine the fame. The forme whereof, with other circumftances, you fhall find in the *Register orig. fo. 71. & 267.* and *Fuzb. natur. br. fol. 233. C.*

Apparlement, commeth of the French (*pareillement*. i. *similiter*, *perinde*, *itidem*) and fignifieth a resemblance, as apparlement of war, anno 2. R. 2. stat. 1. ca. 6.

Appeale (*appellum*) commeth of the french (*appeller*. i. *accire*, *accersere*, *nominare*, *evocare*, *clamore aliquem flagitare*) It fignifieth in our common law, as much as (*accusatio*) with the civilians. For as in the civill law, cognifance of criminall caufes, is taken either upon inquisition, denunciation, or accusation: fo in ours, upon indictment or appeale, indictment comprehending both inquisition, and denunciation. And accusation or appeale, is a lawfull declaration of another mans crime (which by *Brañton* must be felonie at the leaft in the common law) before a competent Iudge, by one that fetteth his name to the declaration, and undertaketh to prove it, upon the penaltie that may enfue of the contrary. To declare the whole courfe of an appeale, were too much for this treatife. Wherefore for that, I muft referre you to *Brañton l. 3. tract. 2. c. 18. cum fequent. Britton. ca. 22, 23, 24, 25.* and to *S. Thomas Smith, l. 3. de repub. Anglo. c. 3.* and laftly to *Stawnf. pl. cor. l. 2. ca. 6, 7. & c. usq. 17.* An appeale is commenced two waies: either by writ, or by bill, *Stawnf. ubi fupra. fo. 46.* And it may be gathered

red by him, *fol. 148.* that an appeale by writ is, when a writ is purchased out of the Chauncerie by one to another, to this end, that hee appeale a third of some felonie committed by him, finding pledges that he shall doe it, and deliver this writ to the Sheriffe to be recorded. Appeale by bill is, when a man of himselfe giveth up his accusation in writing to the Vicount or Coroner, offering to undergoe the burthen of appealing another therein named. This point of our law, among others, is drawne from the Normans, as appeareth plainly by the grand Customarie, *cap. 68.* where there is set downe a solemne discourse, both of the effects of this Appeale, *viz.* the order of the combat, and of the trial by enquest: of which, by the common law of England, it is in the choice of the defendant, whether to take. See the new book of entries, *verbo Appel.* and the book of Assises, *fo. 78. Appel.*

Appeale of *mahem* (*appellum mahemii*) is an accusing of one that hath maimed another. But that being no felonie, the appeale thereof is but in a sort, an action of trespassse: because there is nothing recovered but dammages. *Bracton* calleth this (*appellum de plagis & mahemio*) and writeth of it a whole chapter, *l. 3. tract. 2. ca. 24.* See *S. Ed. Cook. 4. vol. fo. 43. a.*

Appeale of wrong imprisonment (*appellum de pace & imprisonmento*) is used by *Bracton*, for an action of wrong imprisonment, whereof he writeth a whole *tractat. lib. 3. tractat. 2. ca. 25.*

Appeale (*appellatio*) used in our common Law divers times, as it is taken in the civill law: which is a removing of a cause from an inferiour Iudge to a superiour, as appeale to Rome, *anno 24 H. 8. ca. 12. & an. 1. Eliz. ca. 1.* But it is more comonly used, for the private accusation of a murderer, by a party who had interest in the party murdered, or of any felon by one of his complices in the fact. See *Approver.*

Appendant (*appendens*) is any thing belonging to another, as *accessorium principali*, with the Civilians, or *adjunctum subjecto*, with the Logicians. An Hospitall may be appendant to a Maner. *Fitzb. nat. br. f. 142.* Common of fishing appendant to a free hold. *Westm. 2. ca. 25. anno 13. Ed. 1.*

Appertinances (*pertinentie*) cometh of the French (*appartenir. i. pertinere*) It signifieth in our common law, things both corporall, belonging to another thing, as to the more principall: as hamlets to a chiefe Manner, common of pasture, turbarie, piscarie, and such like; and incorporeall, as liberties and services of tenents. *Brit. ca. 39.* where I note by the

way, that hee accounteth common of pasture, turbarie, and piscary, to be things corporall. Look *Common.*

Apportionment (*Apportionamentum*) is a dividing of a rent into parts, according as the land, whence the whole rent issueth, is divided among two or more. See the new termes of law.

Apprentice (*Apprenticium*) cometh of the french (*aprenti. i. tyro & rudis discipulus*) or of the verb (*apprendre. i. addiscere, discere*) and signifieth with us, one that is bound by covenant in word or writing, to serve another man of trade, for certaine yeares, upon condition, that the Artificer or man of Trade, shall in the meane time endeavour to instruct him in his Art or Mysterie. *S. Thomas Smith*, in his booke *de rep. Ang. l. 3. ca. 8.* faith, that they are a kind of bond men, differing onely, in that they be servants by covenant, and for a time. Of these you may reade divers statutes made by the wisdom of our Realme, which I thinke superfluous here to mention.

Appropriation (*appropriatio*) proceedeth from the French (*appropri. i. aptare, accommodare*) and properly signifieth, in the law of *England*, a severing of a benefice ecclesiasticall (which originally and in nature is, *juris divini & in patrimonio nullius*) to the proper

and perpetuall use of some Religious house or Deane, &c. and Chapter, Bishoprick or Colledge. And the reason of the name I take to be this: because that whereas persons ordinarily be not accounted (*domini*) but *usufructuarii*) having no right of fee simple. *Littleton. titu. Discontinuance*: these, by reason of their perpetuities, are accounted owners of the fee simple, and therefore are called *propriarii*. And before the time of *Richard* the second, it was lawfull (as it seemeth) simply, at the least by mans law, to appropriate the whole fruits of a benefice to an Abbey or Priory, they finding one to serve the cure. But that King made so evill a thing more tolerable by a law, whereby hee ordained, that in every license of appropriation made in Chancery, it should expressly be contained, that the Diocesan of the place should provide a convenient sum of money yearly to be paid out of the fruits, toward the sustenance of the poore in that Parish, and that the Vicar should be well and sufficiently endowed, *anno 15. Rich. 2. ca. 6.* Touching the first institution, and other things worth the learning about Appropriations; reade *Plowden in Grendons case. fo. 496. b. & seqq.* as also the new termes of law, *verbo Appropriation.* To
an

an approbation, after the licence obtained of the King in Chancery, the consent of the Diocesan, Patron, and Incumbent are necessary, if the Church be full: but if the Church be void, the Diocesan and the Patron upon the Kings licence may conclude it. *Plowden ubi supra*. To dissolve an appropriation, it is enough to present a Clerke to the Bishop. For, that once done, the benefice returneth to the former nature. *Fitzh. nat. br. fol. 35. F.*

Approver (*approbator*) cometh of the French (*approver*, i. *approbare*, *comprobare*, *calculus albo adicere*) It signifieth in our common law, one that confessing felony of himselfe, appealeth or accuseth another, one or more, to be guilty of the same; & he is called so, because hee must prove that which hee hath alleaged in his appeale, *Stawnf. pl. cor. fo. 142.* And that proove, is by battell, or by the countrey, at his election that appealed. The forme of this accusation, you may in part gather by M. *Cromptons* Iustice of peace, *fol. 250. & 251.* that it is done before the Coroner, either assigned unto the felon by the Court, to take and record what he saith, or else called by the felon himselfe, and required for the good of the Prince and common wealth, to record that which hee saith, &c. The oath of the appro-

ver, when he beginneth the combat, see also in *Crompton* in the very last page of his booke, as also the Proclamation by the Herald. Of the antiquity of this law, you may read something in *Horns mirror of Iustices*, li. 1. in fine cap. *del Office del Coroner*. Of this also see *Bracton* more at large, lib. 3. tract. 2. cap. 21. & 34. and *Stawnf. pl. cor. lib. 2. cap. 52. cum seq.*

Approvers of the King (*Approatores Regis*) be such as have the letting of the Kings Demesnes in small Mannors to the Kings best advantage, anno 51. H. 3. Stat. 5. See *Approve*.

Approve (*approbare*) cometh of the French (*approver*, i. *approbare*, *comprobare*, *calculus albo adicere*) it signifieth in the common lawe to augment, or (as it were) to examine to the uttermost. For example: to approve land, is to make the best benefite thereof by increasing the rent, &c. So is the Substantive (*Approvement*) used in *Cromptons jurisd. fol. 153.* for the profits themselves. So is it likewise in the statute of *Merton ca. 4. anno 2. H. 3.* land newly approved, *Old. nat. br. fol. 79.* So the Sheriffes called themselves the Kings Approvers, anno 1. Ed. 3. cap. 8. which is as much in mine opinion as the gatherers or exactors of the Kings profits. And anno 9. H. 6. cap. 10.

Bailiffes

Bailiffes of Lords in their franchises be called their approvers. But *anno 2. Ed. 3. cap. 12.* Approvers be certaine men especially sent into severall counties of the Realme, to increase the Fermes of Hundreds and Wapentakes, which formerly were set at a certaine rate to the Sheriffes, who likewise dimised them to others, the countie Court excepted.

Approvement (appruamentum) see Approve. See the Register judiciall, *fol. 8. br. & 9. a.* See the new tearmes of Law, *verbo (Approvement.)*

Arbitratour (arbiter) may be taken to proceed from either the Latine (*arbitrator*) or the French (*arbitre*) it signifieth an extraordinarie Judge in one or moe causes, betweene party and party, chosen by their mutuall consents, *West. parte 2. Symbol. titulo Compromise. Sect. 21.* who likewise divideth arbitrement, into generall, that is, including all actions, quarrels, executions, and demands, and speciall, which is of one or moe matters, facts, or things specified, *eodem. sect. 2. 3.* 4. The Civilians make a difference betweene (*arbitrum & arbitratores*) *li. 76. x. pro socio.* For though they both ground their power upon the compromise of the parties: yet their libertie is divers. For *arbiter* is tyed to proceed, and judge according to

law, with equitie mingled: *arbitrator* is permitted wholly to his owne discretion, without solemnitie of processe, or course of judgement, to heare or determine the controversie committed unto him, so it be *juxta arbitrium boni viri.*

Arches court (Curia de arcubus) is the chiefe and ancientest Consistorie that belongeth to the Arch-bishop of *Canterbury*, for the debating of Spirituall causes: and is so called of the Church in *London*, dedicated to the Blessed Virgin, commonly called *Bow Church*, where it is kept. And the Church is called *Bow Church* of the fashion of the Steeple or clocher thereof, whose top is raised of stone Pillars, builded Arch-wise, like so many bent bowes.

The Judge of this Court, is termed the Deane of the Arches, or the Officiall of the Arches Court. Deane of the Arches, because with this officialty, is commonly joyned a peculiar jurisdiction of thirteene Parishes in *London* tearmed a Deanrie, being exempted from the authoritie of the Bishop of *London*, and belonging to the Arch-bishop of *Canterburie*: of which the Parish of *Bow* is one and the chiefe, because the Court is there kept. Some others say, that he was first called *Deane of the Arches*, because

cause the official to the Archbishop, being many times employed abroad, in ambassages for the King and Realme, the Deane of the Arches was his substitute in his Court, and by that meanes the names became confounded. The jurisdiction of this Iudge is ordinary, and extendeth it selfe through the whole Province of *Canterburie*. So that upon any appeale made, hee forthwith, and without any farther examination of the cause, sendeth out his citation to the party appealed, and his inhibition to the Iudge, from whom the appeale is made. Of this he that will, may reade more in the booke intituled. *De antiquitate Ecclesie Britannice historia*.

Arma moluta, seeme to be sharpe weapons that doe cut, and not blunt that doe onely breake or bruise. *Bracton. lib. 3. tract. 2. ca. 23. & Stawnf. pl. cor. fo. 78. & 79.* whereof *Bracton* hath these words: *arma moluta plagam faciunt, sicut gladius, bisacuta, & huiusmodi: ligna vero & lapides brusuras, orbes, & ictus, qui iudicari non possunt ad plagam ad hoc, ut inde veniri possit ad duellum.*

Armour (*arma*) in the understanding of our common law, is extended to any thing, that a man in his anger or furie taketh into his hand, to cast at or strike another. *Cromptons* Iustice of peace, fo. 65. a. So, *armorum appellatio, non*

utiq; scuta & gladios & galeas significat, sed & fustes & lapides. lib. 42. π. de verbo significatione.

Array (*arraia; aliàs arraimentum*) commeth of the French (*array. i. ordo.*) which is an old word out of use: or it may bee well deduced from (*raye. i. linea*) It signifieth in our common law, the ranking or setting forth of a Iurie or Enquest of men impaneled upon a cause. *a. 18. H. 6. c. 14.* Thence is the verbe to array a pannel. *old. nat. br. fo. 157.* that is to set forth one by another, the men empaneled. The array shall be quashed. *old. nat. br. fo. 157.* By statute, every array in assise, ought to be made foure dayes before. *Broke titulo Panel, nu. 10.* to chalenge the array, *Kitchin. fo. 92.*

Arrayers, seemeth to be used in the statute. anno 12. *Rich. 2. cap. 6.* for such officers, as had care of the souldiers armour, to see them duly appointed in their kinds.

Arraine (*arraniare*) commeth of the French (*arranger. i. astituere, ordinare*) that is, to set a thing in order, or in his place, and the same signification it hath in our common law. For example, hee is said to arraine a writ of *novel disseisin* in a county, that fitteth it for triall, before the Iustices of the circuit. *old. nat. br. fol. 109. Littleton. fo. 78.* useth the same word in the same sense, viz. the lease arraineth an assise of *Novell*

disseisin. Also a prisoner is said to be arraigned, where he is indighted and brought forth to his triall. Arraigned within the verge upon murder. *Stamf. pl. cor. fo. 150.* The course of this arraignment, you may reade in *S. Thomas Smith, de repub. Anglo. li. 2. cap. 23.*

Arrearages (*arrereragia*) cometh of the French (*arrierages. i. reliqua*) It signifieth the remaine of an account, or a summe of money remaining in the hands of an accountant. It is used sometime more generally, for any money unpaid at the due time: as arrearages of rent. That this word is borrowed from France, it appeareth by *Tiraquel de uroq; retractu. tomo. 3. pa. 32. num. 10.*

Arrest (*arestum*) cometh of the French (*arrestar. i. retinere, retare, subsistere*) or rather, it is a French word in it selfe, signifying a setting, stop, or stay, and is metaphorically used for a decree or determination of a cause debated or disputed to and fro, as (*arrest du Senat. i. placitum curia*). In our common law, it is taken most of all for a stay or stop: as a man apprehended for debt, &c. is said to be arrested. To plead in arrest of judgement, is to shew cause why judgement should be stayed, though the verdict of the twelve be passed. To plead in arrest of taking the enquest upon the former issue, is to shew cause why

an enquest should not bee taken, &c. *Broke tit. Repleder.* Take this of learned *M. Lamberd* in his *Eirenarch. lib. 2. cap. 2. pa. 94.* *Bada* (saith hee) in his Greeke Commentaries is of opinion, that the French word (*arrest*) which with them signifieth a Decree or Iudgement of court, tooke beginning of the Greeke (*ἄρρεστος. i. Placitum*) and as wee might say, the pleasure and will of a Court. And albeit it were not out of the way to thinke that it is called an Arrest, because it stayeth or arresteth the partie: yet I beleeve rather, that we received the same from the Norman lawes, because we use it in the same sense with them. For commonly with us, an arrest is taken for the execution of the commandment of some court, or of some officer in justice. But howsoever the name began: an Arrest is a certaine restraint of a mans person, depriving him of his owne will and liberty, and binding it to become obedient to the will of the law. And it may bee called the beginning of imprisonment. Precepts and writs of the higher courts of law, doe use to expresse it by two sundry words: as (*capias*) and (*attachies*) which signifie to take or catch hold of a man. But this our precept noteth it by the words (*duci facias*) that is, cause him to be convaied, &c. For that the officer

cer hath (after a sort) taken him before; in that hee commeth unto him, and requireth him to goe to some Iustice of the Peace. Thus saith *M. Lamberd*. And by like this word is spred farther then *France*. For *Gaile* a German writer sheweth by his Tractate (*de arrestis imperii*) that it is used also in the Imperial territories, & in the same signification, *c. 1. n. 1.*

Arrestandus bonis ne dissipentur, is a writ which lyeth for him, whose cattell or goods are taken by another, that, during the controversie, doth, or is like to make them away, and will be hardly able to make satisfaction for them afterward, *Reg. orig. fol. 126. b.*

Arrestando ipsum qui pecuniam recepit ad proficiscendum in obsequium regis, &c. is a writ that lieth for the apprehension of him, that hath taken prest money towards the Kings wars, and lieth hidden when hee should goe, *Register, orig. 24. b.*

Arresto facto super bonis mercatorum alienigenarum, &c. is a writ that lieth for a Denizen against the goods of strangers of any other Country, found within the Kingdome, in recompence of goods taken from him in the said Country, after he hath been denied restitution there, *Reg. orig. fo. 129. a.* This among the ancient Civilians was called (*clarigatio*) now barbarously *represalia*.

Arretted (arrestatus) is he that is convented before a Iudge, and charged with a crime, *Stamf. pl. cor. lib. 2. 45. quasi ad rectum vocatus*. It is used sometime, (for (imputed or laid unto) as, no folly may be arretted to him being under age, *Littleton, cap. Remitter*. The Latine substantive (*Rectum*) is used in the *Register origin*. *Chawcer* useth the verb (arret-teth) *id est*, layeth blame, as *M. Speight* interpreteth it. I may probably conjecture, that this word is the Latine (*rectum*.) For *Bracton* hath this phrase (*ad rectum habere malefactorem*) i. to have the Malefactor forth coming: so as hee may be charged, and put to his triall, *lib. 3. tract. 2. cap. 10.* and in another place (*reatus de morte hominis*) i. charged with the death of a man, *cod. cap. 1. num. 3.*

Articles of the Clergie (articuli Cleri) be certaine statutes made touching persons, and causes Ecclesiasticall, *anno 9. Ed. 2.* Like unto which there were other made, *anno 14. Ed. 3. stat. 3.*

Assay of measures and waights (assaia mensurarum & ponderum) *Register origin. fol. 279.* is the examination used by the Clerke of the Market.

Assayer of the King, is an officer of the Mint, for the due triall of Silver, indifferently appointed betwixt the Master of the Mint,

and the Merchants that bring Silver thither for exchange, anno 2. H. 6. cap. 12.

Affault, insultus, commeth of the French verbe *assailir*. i. *adoriri, appetere, invadere*) which French also proceedeth from the Latine (*assilire*. i. *vim asserre, oppugnare*.) It signifieth in our common law, a violent kind of injury, offered to a mans person, of a higher nature then battery. For it may be committed by offering of a blow, or by a fearefull speech, *M. Lamberd* in his *Eirenar. lib. 2. cap. 3.* whom reade. The Feudists call this (*assultum*) and define it thus: *Assultus, est impetus in personam aut locum, sive hoc pedibus fiat vel equo, aut machinis, aut quacunque alia re assiliatur. Zasius de feud. parte 10. nu. 38.* And (*assilire*) est, *vim adserre, adoriri, oppugnare, li. feud. 1. tit. 5. §. 1.*

Affach, seemeth to be a Welch word, and to signifie so much, as a kind of excuse, or strange kind of purgation by the oathes of three hundred men, anno 1. H. 5. cap. 6.

Affart (*assartum*) in *M. Manwoods* judgement, parte 2. ca. 9. nu. 5. of his Forrest lawes, commeth of the French (*assortir*) signifying (as he saith) to make plaine, or to furnish; but rather indeed, to set in order, and handsomly to dispose. *Assartum est, quod redactum*

est ad culturam. Flet. l. 4. ca. 21. §. Item respondere. It signifieth, as the said *M. Manwood* saith, nu. 1. ubi supra, an offence committed in the Forest, by plucking up those woods by the rootes, that are thickets or coverts of the Forest, and by making them plaine, as eareable land, where he also saith, that an *assart* of the Forest, is the greatest offence or trespassse of all other, that can be done in the Forest, to vert or venison, containing in it as much as waste or more. For whereas the waste of the Forest, is but the felling, and cutting downe of the coverts, which may grow againe in time: an *assart*, is a plucking them up, &c. which hee confirmeth out of the red book in the Exchequer, in these words: *Assarta vero, occisiones nominantur, quando scilicet: foreste nemora vel dumeta, pascuis & latibulis ferarum oportuna, succiduntur: quibus succisis & radicitus avulsis, terra subvertitur & excolitur.* And again, out of the Register origin. fol. 257. a. b. in the writ (*ad quod damnum*) sent out in case, where a man sueth for a license, to assart his grounds in the Forest, and to make it severall for tillage. So that it is no offence, if it be done with licence. To this, may *Bracton* also be added, lib. 4. ca. 38. nu. 11. where he saith, that these words (*boscus efficitur assartum*) signifie as much, as (*reductum*

in culturam) of this you may read more in *Cromptons Jurisdictions*. fo. 203 and in *charta de foresta*, an. 9. H. 3. ca. 4. where the English word is not (*assart*) but *assert*, and in *Manwood*, parte 1. of his Forest lawes, pag. 171. The word is used anno 4. Ed. 1. stat. 1. in the same signification. That which we call (*assartum*) is elsewhere termed *Disboscatio*. Decis. Genu. 74.

Assembly unlawfull, (*illicita assembleta*) cometh of the French (*assembler*. i. *aggregare*) whence also is the substantive (*assemblee*. i. *coitio*, *congregatio*.) It is in our common law (as *M. Lamberd* defineth it, *Eiren. li. 1. ca. 19.*) the companie of 3 persons (or more) gathered together to doe an unlawfull act, although they doe it not. See unlawfull assemblee.

Assers (*quod tantundem valet*) *Bract. l. 5. tract. 3. ca. 8. m. 2.* is nothing but the French (*asser*. i. *satis*) For though this word masque under the visard of a substantive, it is in truth but an adverb. It signifieth in our Common law, goods enough to discharge that burthen, which is cast upon the executour or heire, in the satisfying of the Testators or Ancestors debts or legacies. See *Booke, titulo Assers per discent*: by whom you shall learne, that whosoever pleadeth Assers, sayeth nothing, but that hee against whom hee pleadeth, hath enough descended

or come to his hands, to discharge that which is in demand. The author of the new termes of law, maketh two sorts of Assets, *viz. assers par discent*, & *assers enter mains*; the former, being to be alleaged against an heire, the other, against an executor or administrator.

Assigne (*assignare*) both it selfe, and the French (*assigner*) come of the latine. It hath two significations: one generall, as to appoint a *deputé*, or to set over a right unto another. In which signification, *Britton fo. 122.* saith this word was first brought into use, for the favour of Bastards; because they cannot run under the name of Heires to their fathers, and therefore were, and are comprised under the name of (*assignees*.) The other signification of this word is especiall, as to appoint at, or set forth, *viz. to assigne error*. *Old nat. br. f. 19.* is to shew in what part of the proceffe error is committed. To assigne false judgement, *eodem fo. 17.* that is, to declare how, and where the judgement is unjust. To assigne a false verdict, *eodem fo. 112.* and to assigne an oath to be false, *anno 9. R. 2. ca. 3.* To assigne the cessor, *Old nat. br. fo. 1341.* to shew how the plaintiffe had cessed, or given over. To assigne wast, is to shew, wherein especially the wast is committed, *Reg. orig. f. 72.*

Assigne, in the generall signification is used, *anno 20. Ed. 1. & anno. 11. H. 6. cap. 2.* in these words: Iustices assigned to take assises. And the substantive (*assignement*) hath the same signification, *Wests symb. parte 1. lib. 2. sect. 496. & seq.* In which manner is also used the adjective (*assignee, assignatus*) viz. for him that is appointed or deputed by another, to doe any act, or performe any businesse, or enjoy any commoditie. And an *assignee* may be either in deed, or in law. *Assignee* in deed, is hee that is appointed by a person, an *assignee* in law is hee, whom the law so maketh without any appointment of the person, *v. Dyer fol. 6. num. 5. Perkins in Grauntes* saith, that an *assignee* is hee, that occupieth a thing in his owne right: and *deputé*, hee that doth it in the right of another.

Assise (*assisa*) commeth of the French (*assise*) which in the grand Customarie of *Normandy*, *cap. 24.* is defined to this effect. *Assise* is an assembly of Knights and other substantiall men, with the Bailiffe or Iustice in a certain place, and at a certaine time appointed. And againe, *cap. 55.* *Assise* is a Court, in the which whatsoever is done, ought to have perpetuall strength. This Norman word (*assise*) commeth of the French (*asseoir. i. collocare*)

to settle or bestow in some place certaine: as (*s'asseoir*) is to sit downe by another. And metaphorically it is used of things incorporeall: as (*asseoir son ingement sur quelque lieu*) is, *interponere iudicium suum*. Of this verbe commeth the Participle (*assis*) as (*estre assis*) i. *sedere*. And this Participle in the grand Customarie of *Normandy*, *cap. 68.* is used, as wee would say: appointed, limited, or determined, viz. (*au jour qui est assis à faire la bataille, se doibuent les champions offrir à la justice*) that is, at the day which is appointed for the combat, the Champions ought to offer themselves to the Iustice. So that by all these places compared together, it is evident whence the originall of this word (*assise*) floweth. How diversly it is used in our common law, it followeth that we declare. First *Litleton* in the chapter, *Rents.* saith, that it is *equivocum*: where hee setteth downe three severall significations of it: one, as it is taken for a writ: another, as it is used for a Turie: the third, as for an ordinance. And him, hee that listeth, may reade more at large. My collections have served me thus: first (*assise*) is taken for a writ directed to the Sheriffe, for the recoverie of possession of things immoveable, whereof your selfe, or your Ancestour have bene disseised,

disseised. And this is as well of things corporall as incorporeall rights, being of foure sorts : as here they follow in their order.

Assise of novel disseisin (*assisa nova disseisina*) lieth where a tenant in Fee-simple, Fee-taile, or for tearme of life, is lately disseised of his lands or tenements, or else of a rent service, rent seck, or rent charge, of common of pasture, of an office, of toll, tronage, passage, pownage, or for a nufance levied, and divers other such like. For confirmation whereof, you may reade *Glanvile lib. 10. cap. 2. Bracton li. 4. tract. 1. per totum. Britton. cap. 70. & seqq. Register orig. fol. 197. Fitz. nat. br. fol. 177. 178. 179.* new booke of Entries. fol. 74. col. 3. West. 2. ca. 25. anno 13. Ed. 1. And to this may aptly be added the Bill of freish force (*frisca fortia*) which is directed to the Officers or Magistrates of Cities or Townes corporate, being a kind of assise for recovery of possession in such places within fourty dayes after the force, as the ordinary assise is in the county. *Fitz. nat. br. fo. 7 c.* This the Civilians call, *indictum possessorium recuperandi.*

Assise of mort d'ancester (*assisa mortis antecessoris*) lyeth, where my father, mother, brother, sister, vncle, aunt, &c. died seised of lands, tenements, rents, &c. that hee had in fee simple, and after his

death a stranger abateth : and it is good as well against the abator, as any other in possession. How likewise this is extended, see *Bracton, lib. 4. tract. 3. per totum. Britton, ca. 70. cum multis sequent. Fitz. nat. br. fo. 114. Register, orig. fo. 223.* This the Civilians call, *Indictum possessorium adipiscendi.*

Assise of darrein presentment (*assisa ultima presentationis*) lyeth where I, or mine ancestor have presented a Clarke to a Church, and after (the Church being void by the death of the said Cleark, or otherwise) a stranger presenteth his Clarke to the same Church, in disturbance of me. And how otherwise this writ is used, See *Bracton, li. 4. tractat. 2. Register, orig. fo. 30. Fitz. nat. br. fo. 195.*

Assise de utrum (*assisa utrum*) lieth either for a Parson against a lay man, or a lay man against a Parson, for land or tenement doubtfull, whether it be lay fee, or freealmes. And of this, see *Bracton, lib. 4. tract. 5. cap. 1. & seqq. Brit. cap. 95.* The reason why these writs be called assises, may be divers. First, because they settle the possession, and so an outward right in him that obtaineth by them. Secondly, they were originally sped and executed at a certaine time and place formerly appointed. For by the Norman law, the time and place must

must be knowne fourty dayes before the Iustices fate of them: and by our law, there must bee likewise fifteene dayes of preparation, except they be tried in those standing Courts of the King in *Westminster*: as appeareth by *Fitzh. nat. br. fo. 177. D. E.* Lastly, they may be called assises, because they are tried most commonly by especiall Courts, set and appointed for the purpose: as may be well proved not onely out of the Customary of Normandy, but our bookes also: which shew, that in ancient times, Iustices were appointed by especiall commission, to dispatch controversies of possession, one or more, in this or that onely countie, as occasion fell out, or disseisins were offered, and that as well in terme time, as out of terme: whereas of later dayes, we see that all these Commissions of Assises, of *Eyre*, of *Oyer*, and *Terminer*, of *Goal delivery*, and of *Nisi prius*, are dispatched all at one time, by two severall circuits in the yeare, out of terme, and by such as have the greatest sway of Iustice, being all of them, either the Kings ordinary Iustices of his benches, Sergeants at the law, or such like.

Assise, in the second signification (according to *Littleton*) is used for a Iurie. For (to use his owne example) it is set downe in the beginning of the record of

an assise, of *novel disseisin*. *Assisa venit recognitura*; which is as much to say, as *Iuratores veniunt recognituri*. The reason why the Iurie is called an assise, hee giveth to bee this: because by the writ of assise, the Sheriffe is commanded, *quod faciat duodecim liberos & legales homines de viceneto, &c. videre tenementum illud, & nomina eorum imbrevari, & quod summoneat eos per bonas summonitiones, quod sint coram Iustitiariis, &c. parati inde facere recognitionem, &c.* This is (as if hee should have spoken shorter) *metonymia effecti*. For they are called the *assises*, because they are summoned by vertue of the writ so termed. And yet the Iurie summoned upō a writ of right, is likewise called the assise, as himselfe there confesseth: which writ of right is not an assise. But this may be said to be *καταχρηστικῶς*, or abusively so termed. *Assise*, in this signification, is divided in *magnam & parvam*. *Glanville, li. 2. cap. 6. 7. &c.* and *Britton. cap. 12.* where it appeareth wherein the great assise differeth from the petit assise: whom I wish to bee read, by those that would bee further instructed in this point. For this place, thus much in short. The former foure kinds of assises used in actions onely possessory, be called petit assises, in respect of the grand assise. For the law of feefe

is grounded upon two rights: one of possession, the other of propriety: and as the grand assise serveth for the right of property, so the petit assise serveth for the right of possession. *Horns mirror of Iustices, lib. 2. cap. de novel. disseisin.*

Assise in the third signification according to *Littleton*, is an ordinance of statute: as the statute of bread and ale made, anno 51. H. 3. is termed the assise of bread and ale (*assisa panis & cervicie*) *Regist. orig. fol. 279. b.* The assise of *Clarendon*, (*assisa de Clarendon*) whereby those that be accused of any heinous crime, and not able to purge themselves by fire and water, but must abjure the realm, had liberty of fourty dayes to stay; and try what succour they could get of their friends, toward their sustinance in exile. *Stamf. pl. cor. fol. 118. out of Bracton. li. 3. tract. 2. cap. 16. num. 2.* Of this also *Roger Hoveden* maketh mention, and more particularly then any that I have read, *parte poster. suorum annalium, fol. 313. b. in Henrico secundo.* Assise of the Forest (*assisa de Foresta*) which is a statute or constitution touching orders to be observed in the Kings Forest. *Manwood, parte. 1. of his Forest lawes, pag. 35.* *Crompton* in the Court of the Iustices of the Forest *per totum, fol. 146. & seq.* And the assise of the King, *an. 18.*

Ed. 3. stat. 1. called the statute for view of Frankepledge. And these bee called assises, because they set downe and appoint a certaine measure, rate, or order in the things which they concerne. Of Assise in this signification doth *Glanvil* also speake, *lib. 9. cap. 10. in fine.* *Generaliter verum est quod de qualibet placito quod in comitatu deducitur & terminatur, misericordia qua inde provenit, vicecomiti debetur: qua quanta sit, per nullam assisam generalem determinatum est.* And thus much touching *Littletons* division. But if we marke well the writers of the law, we shall find this word (*assise*) more diversly used, then this Author hath noted. For it is used sometime for the measure or quantity it selfe; (and that *per Metonymiam effecti*) because it is the very scantline described or commanded by the ordinance: as for example; wee say, when wheat, &c. is of this price, then the bread, &c. shall bee of this assise. This word is further taken, for the whole processe in court upon the writ of assise, or for some part thereof, as the issue or verdict of the jury. For example, assises of new disseisin, &c. shall not be taken, but in their shires, and after this manner, &c. *mag. char. cap. 12.* And so it seemeth to signifie, *Westm. 2. cap. 25. anno 13. Ed. 1.* in these words:

let the disseisors alledge no false exceptions, whereby the taking of the Assises may be deferred, &c. And anno 34. Ed. 1. stat. 2. if it be found by a life: the assise is arraigned: to averre by the assise: the assise by their default shall passe against them: and also ann. 1. H. 6. cap. 2. assises awarded by default of the tenants, &c. Lastly, by *Merton*, cap. 4. an. 20. H. 3. certified by the assise, quit by the assise, &c. And in this signification, *Glanville* calleth it, *magnam assisam domini regis: que ex duodecim ad minus legalium hominum sacramentis consistit. li. 2. cap. 7.* *Bracton* useth it in like sort: as *assisa cadit in transgressionem, lib. 4. cap. 30.* & *assisa cadit in perambulationem, eodem, cap. 31. num. 2.* *Fleta* defineth an assise in this signification, thus: *Assisa in jure possessorio, est quedam recognitio duodecim hominum juratorum, per quam Iusticiarii certiorantur de articulis in brevi contentis.* An assise also thus signifying, is said sometime to passe, (*per modum assise*) and sometime in *modum jurata*, in manner of an assise, when onely the disseisin in question, is put to the triall of the twelue, in manner of a Iurie, when as any exception is objected to disable the interest of the disseisee, and is put to be tryed by the twelue, before the assise can passe. As for example: *Quaestio statum,*

causa successionis, causa donationis, pactum sive conditio vel conventio, voluntas & dissimulatio, transactio, vel quietusclamatio vel remissio, confirmatio sive consensus, propria usurpatio rei propria, difficultas iudicii, justum iudicium, finis, chirographum, intrusio in rem alienam, vel disseisina, si incontinenti rejiciatur, negligentia que per transitum temporis excludit actionem. *Fleta. lib. 4. cap. 10. §. 1.* whom reade also to this point, cap. 11. §. *Si autem a Domino:* and at large, cap. 16. *eiusdem libri.* & lib. 5. cap. 6 §. *Item vertitur assisa & seq.* And note that assise in this signification, is taken foure wayes, *old. nat. br. fol. 105.* The first, is assise at large, which is taken as well upon other points, as upon the disseisin. For example, where an infant bringeth an assise, and the deed of his ancestor is pleaded, whereby he claimeth his right or foundeth his title: then the assise shall be taken at large: that is, the Iurie shall enquire, not onely whether the plaintiffe were disseised or not by the tenent, but also of these other points: *viz.* whether his auncestor were of full age, of good memory, and out of prison, when hee made the deed pleaded. Another example out of *Kitchin, fol. 66.* The tenant pleadeth a forraigne release, in barre to an assise, whereupon the cause was adjourned. At the day

day the tenent maketh default. Therefore the assise was taken at large : that is, not onely whether the plaintiffe were disseised, but also whether there be any such forraine release. A third example you may reade in *Littleton, cap. Estates upon condition*. The second manner of assise in point of assise (*assisa in modum assise*) which is, when the tenent, as it were, setting foot to foot with the Demandant, without farther circumstance, pleadeth directly contrary to the writ, no wrong, no disseisin. The third manner is, assise out of the point of assise (*assisa extra assisam, vel in modum jurata.*) viz. when the tenent alleageth some by exception, that must be tried by a Iurie, before the principall cause can proceed : as if hee plead a Forreine release, or Forreine matter triable in another countie. For in this case, the Iustices referre the Record to the court of Common plees, for the triall of the Forreine plea, before the disseisin can come to be discussed. Of this sort reade divers other examples in *Bracton, lib. 4. parte 1. cap. 34.* For there be of them (as he saith) and *Britton* also, *cap. 52.* both dilatorie and peremptorie. The fourth and last manner is: assise of right of damages, and that is, when the tenent confessing a putting out, and referring it to a demurrer in

law, whether it were rightly done or not, is adjudged to have done wrong. For then shall the Demandant have a writ to recover damages, which is called assise to recover damages, as also the whole processe.

Assise, is further taken for the court, place, or time, where and when the writs and processe of assise be handled or taken. And in this signification assise is generall : as when the Iustices passe their severall Circuits, every couple with their Commission, to take all assises twice in the yeare. For hee that speaketh of any thing done, at that time, and in that place, will commonly say, that it was done at the generall assise. It may likewise be speciall, in this signification: as if an especiall Commission should be granted to certaine (as in ancient times they often were, *Bracton, lib. 3. cap. 11. in fine*) for the taking of an assise upon one disseisin or two : any thing done in the Court before them, a man would say, it was done at such an especiall assise. And in this very signification doth *Glanvil* use it, *lib. 9. cap. 12.* in these words ; *Si contra dominum suum & non infra assisam, tunc distringitur ipse occupator, &c.* and *lib. 13. cap. 32.* in these words : *cum quis itaque infra assisam domini regis, i. infra tempus a domino rege de consilio procerum*

ad hoc constitutum, quod quandoq̄ maius, quandoq̄ minus censetur, alium injustè & sine iudicio disseisiverit, &c. Of this word Assise, you may read in *M. Skene, de verbo. signif. verbo. Assise*, and by him understand, that in Scotland also it is diversly used, viz. in 5. severall significations. And touching the fifth signification, he hath these words: An Assise is called a certaine number of men lawfully summoned, received, sworne and admitted to judge and discern in sundry civill causes, fyke as Perambulations, Cognitions, Molestations, *pourpétrure*, division of lands, serving of Briefes, and in all and sundry Criminall causes decided and tried by an Assise: whereof there are two kinds: one ordinarily in use, which may be called a little Assise of the number of 13 or 15 persons: the other, called a great Assise, which consisteth of 25 persons, &c. The rest is very worth the reading.

Assisa continuanda, is a writ directed to the Iustices assigned to take an Assise, for the continuance of the cause, in case where certain records alleaged, cannot in time bee procured by the party that would use it, *Reg. orig. f. 217.*

Assisa preroganda, is a writ directed to the Iustices of Assise, for the stay of proceeding, by reason of the kings businesse, wherein the

partis is employed, *Register orig. fo. 208. and fo. 221.*

Association (*associatio*) is a patent sent by the King, either of his owne motion, or at the suit of the plaintiffe, to Iustices appointed to take assises of *novel disseisin*, or of *Oyer and Terminer*, &c. to take others unto them as fellowes and colleagues in that businesse. The derivation is plaine: the examples and sundry uses hereof you may find, in *Fitzb. nat. br. fo. 185. E. & fo. 111. B.* but more particularly in the *Reg. orig. fo. 201, 202, 205, 206, 207, 223, 224.*

Affoile (*absolvere*) commeth of the french (*absoudre*) and signifieth to deliver or set free from an excommunication, *Stawf. pl. cor. fo. 72.* in words to this effect: Otherwise the defendant should remaine in prison untill the plaintiffe were affoiled, that is, delivered from his excommunication.

Assumpsit, is a voluntary promise made by word, whereby a man assumeth, or taketh upon him to performe or pay any thing unto another. This word containeth any verball promise made upon consideration, which the Civillians expresse by divers words, according to the nature of the promise, calling it sometime *pactum*, sometime *sponsionem*, sometime *promissionem*, *pollicitationem* or *constitutum*, the word seemeth to be drawne from the Latine

tine (*assumptio*) quæ significat professionem. l. x. ad municipalem.

Attache (*attachiare*) cometh of the french (*attacher. i. figere, netere, illigare, defigere, aligare.*) In our common law it signifieth, to take or apprehend by commandment or writ. And *M. Lambert* in his *Eirenarch. li. 1. cap. 16.* maketh this difference between an Arrest, and an Attachement, that an Arrest proceedeth out of lower Courts by precept, and an Attachement out of higher Courts by precept or writ: and that a precept to Arrest hath these formall words (*duci facias, &c.*) and a writ of Attachement these words: (*precipimus tibi quod attachies talem, & habeas eum coram nobis, &c.*) whereby it appeareth, that hee which arresteth, carrieth the party arrested to another higher person to be disposed of forthwith, he that attacheth, keepeth they party attached, and presenteth him in Court at the day assigned in Attachement. Yet I observe out of *Master Kitchen*, that an Attachement issueth out of a Court Baron, which is a low Court, *cap. Attachement in Court Baron, fo 79.* Another difference there is, that an Arrest lieth onely upon the body of a man, and an Attachement sometime upon his goods, as shall be shewed in the sequell. It may be likewise asked how an Attache-

ment and a (*capias*) do differ: and how an Attachement and a (*cape*) and an Attachement and a Distresse. First, that an Attachement differeth from a (*capias*) it appeareth by *Kitchin* in these words: *fo. 79.* Note that in a Court Baron a man shall be attached by his goods; and a (*capias*) shall not goe out thence: wherby I gather, that an Attachement is more generall, taking hold of a mans goods, and a (*capias*) of his body onely. Then an Attachement differeth from a (*cape*) in this, because a (*cape*) be it (*cape magnum*) or (*cape parvum*) taketh hold of immoveables, as lands or tenements, and are properly belonging to action reall: as you may gather out of their formes, in *Fitzb. nat. br.* whereas Attachement hath rather place in Actions personall, as *Bracton* plainly setteth downe, *li. 4. tract. 4. ca. 5. nu. 3.* Where neverthelesse it appeareth, that a (*cape*) may be likewise used in an Action personall. An Attachement (as it is formerly said) taketh hold of moveable goods, or the body. For it appeareth by *Kitchin, f. 263.* that a man may bee attached by a hundred Sheepe. Reade *Skene, de verbo signif. verbo Attachamentum.*

Now it followeth to shew how Attachement differeth from a Distresse. For so it doth, as may be shewed out of *Kitchin, fol. 78.*

where hee saith, that proceſſe in Court baron, is Summons, attachment, and Distresse, out of the *Old. nat. br. fo. 27.* where it is said, that a proceſſe in a (*quare impedit*) is Summons, Attachment, and one Distresse, and againe, *fo. 28.* where (speaking of the writ *Ne admittas*) he saith thus: And the proceſſe is one prohibition, and upon the prohibition an Attachment and Distresse; and *fo. 32.* in a writ of (*Indicavit*) you have these words: And after the Attachment returned, the Distresse shall goe out of the Roles of the Iustices. *Bracton* on the other side, *l. 5. iract. 3. c. 4. nu. 2.* sheweth, that both (*attachiamentum, & magnum cape, districtiones sunt.*) Of which opinion *Fleta* also is, *li. 5. ca. 24. S. si autem ad.* But there also he saith, that (*attachiamentum est distractio personalis, & cape magnum distractio realis.* So that by his opinion, *distractio* is (*genus*) to Attachment. *Britton* in his 26. chapter, hath words to this effect: But in Attachment of Felony, there commeth no Distresse, otherwise then by the body. And if the Sheriffe returne in the cases aforesaid, that the Trespassours have nothing in his Bayliwick, by the which they may be distreined, it must be awarded that hee take their bodies, &c. In which place, an Attachment is plainly used, for an apprehension

of an offender by his goods. So that to conclude, I find no difference betweene an Attachment, and a Distresse, but these two: That an Attachment reacheth not to lands, as a Distresse doth; and that a Distresse toucheth not the body (if it be properly taken) as an Attachment doth. Yet are they divers times confounded, as may appeare by the places formerly alleaged, and by *Glanvil lib. 10. cap. 3.* and *Fleta li. 2. ca. 66. & seqq.* Howbeit, in the most common use, an Attachment is an apprehension of a man by his body, to bring him to answer the Action of the plaintiffe: a Distresse is the taking of another mans goods, for some reall cause, as rent, service, or such like, wherby to drive him to replevie, and so to be plaintife in an Action of Trespasse, against him that distreined him. And so much for the difference, and coherencie of these words. See also Distresse.

I find in *West. parte 2. Symbolaio. titulo* proceedings in Chauncerie, *sect. 22, 23.* that Attachment out of the Chancerie is two-fold, one simple, and originally decreed for the apprehension of the partie: the other, after returne made by the Sheriffe *Quod defendens non est inventus in Balliva sua*, with Proclamations made through the whole Countie, in such places, as hee shall thinke

meete, that the partie appeare by a day assigned, and that hee be attached nevertheless, if hee may bee found. This second kind hath an affinity with the Canonists (*vijs & modis*) at the which if the partie appeare not, he is excommunicate: or with the Civilians (*vijs & modis unâ cum intimatione*) for in the Chancery, if he come not upō this, he is forthwith pressed with a writ of rebellion.

There is an attachment of privilege, which is a power to apprehend a man in a privileged place, or else, by vertue of a mans privilege, to call another to this or that Court, whereunto hee himselfe belongeth, and in respect whereof, hee is privileged. New booke of Entries, *verbo privilege. fo. 431. col. 2.* There is also a forraigne attachment, which is an attachment of a Forreiners goods found within a liberty or citie, to satisfie some credirour of his within the Citie. There is also an attachment of the forest, which is a Court there held. For (as *M. Manwood* saith) in his first part of forrest lawes, pag. 90. 92. 99. there bee three courts of the forest, whereof the lowest is called the (*attachment*) the meane, the (*swaynemote*) the highest, the (*Iustice seate in Eyre.*) This court of attachment seemeth so to bee called, because the verderours of the forest have

therein no other authority, but to receive the attachments of offenders against vert and venison, taken by the rest of the officers, and to enroll them, that they may bee presented and punished at the next Iustice seate. *Minwood, parte. 1. pag. 93.* And this attaching is by three meanes, by goods and cartels, by body, pledges, and mainprise, or by the body onely. The court is kept every fourty dayes throughout the yeare. And he that hath occasion to learne more of this, I refer him to *M. Manwood, loco quo supra*, and to *M. Crompton* in his court of the forest. Attachment is commanded in writs, the diversity whereof you may see, in the *Register originall* under the word *Attachiammentum in indice.*

At large, see assise at large in the word assise, and *old. nat. br. fo. 105.* Verdict at large, *Littleton. fo. 98.* To vouch at large, *old. nat. br. fo. 108.* To make title at large. *Kiichin. fo. 68.* See *Barre.*

Attaine (*attincta*) commeth of the French, as you shall see in the word (*attainted:*) But as it is a substantive, it is used for a writ, that lieth after judgement, against a Iurie that hath given a false verdict in any court of Record (bee the action reall or personall) if the debt or damages surmount the summe of 40. shillings: what the forme of the writ is, and how

in use it is extended, see *Fitz. nat. br. fol. 105.* and the new booke of Entries, *fol. 84. colum. 1.* The reason why it is so called, seemeth to bee, because the partie that obtaineth it, endeavoureth thereby to touch, deprehend, or stain the Iurie with perjury, by whose verdict hee is grieved. What the punishment of this perjury is, or of him that bringeth the writ against the Iury, if he faile in his prooffe, see *Glanville, lib. 2. cap. 19. Fitz. nat. br. fol. 109. K. L. & 110. A. B. C. D. &c.* the Termes of the law, *verb. Attaint. Fortescue cap. 26. Smith de rep. Anglo. lib. 3. cap. 2.* and *anno 11. Hen. 7. cap. 21. & ann. 23. H. 8. cap. 3.* and others. In what diversity of cases this writ is brought, see the *Register orig. in Indice.*

Attainted (attinctus) commeth of the French (*teindre. i. tingere*) the participle whereof is (*teinct. i. tinctus*) or else of (*attaindre. i. assequi, attingere.*) It is used in our common law, particularly for such as are found guilty of some crime or offence, and especially of felony or treason. How be it a man is said to bee attainted of disseisin, *Westm. 1. cap. 24. & 36. anno 3. Ed. 1.* And so it is taken in French likewise (as *estre attaint & vaynen en aucun cas*) is to bee cast in any case. Which maketh mee to thinke that it ra-

ther commeth from (*attaindre*) as wee would say in english cat-ched, overtaken, or plainly deprehended. And *Britton, cap. 75.* useth the participle (*attaint*) in the sense that we say (attained unto) a man is attainted by two meanes: by appearance or by processe. *Stamf. pl. cor. fo. 44.* Attainder by appearance, is by confession, by battell, or by verdict, *idem. fo. 122.* Confession whereof attaint groweth, is double: one at the barre before the Iudges, when the prisoner upon his endictment read, being asked guilty or not guilty, answereth guilty, never putting himselfe upon the verdict of the Iurie: the other is before the Coroner in sanctuarie, where hee upon his confession was in former times constrained to abjure the Realme: which kind also of the effect, is called Attainder by abjuration. *Idem, fol. 182.* Attainder by battell is, when the partie appealed by another, and chusing to try the truth by combat rather then by Iurie, is vanquished. *Idem, fol. 44.* Attainder by verdict is, when the prisoner at the barre answering to the endictment, not guilty: hath an enquest of life and death passing upon him, and is by their verdict or doome pronounced guilty. *Idem, fo. 108. & 192.* Attainder by processe (otherwise called attainder by

default, or attainer by outlagary) is where a partie flyeth, and is not found untill hee have beene five times called publikely in the countie, and at the last out-lawed upon his default, *Idem fol. 44.* I find by the same Author, *fol. 108.* that hee maketh a difference betweene attainer and conviction, in these words: And note the diversity betweene attainer and conviction, &c. And with this agreeth the Statute, *ann 34. & 35. H. 8. cap. 14. in ipso principio*, and *anno 1. Edm. 6. cap. 12.* in these words: that then every such offender being duely thereof convicted or attainted, by the lawes of this Realme, &c. And againe, in these words: Every woman that is, or shall fortune to be wife of the person so attainted, convicted, or outlawed, &c. To this you may likewise add the statute, *anno 2. & 3. Edm. 6. cap. 33.* And I find by *Stawf. pl. cor. fol. 66.* that a man by our ancient lawes, was said to bee convicted presently upon the verdict (guilty) but not to bee attainted, untill it appeared that hee was no Clerke: or being a Clerke, and demanded of his Ordinary, could not purge himselfe. So that a man was not attainted upon conviction, except hee were no Clerke: and in one word, it appeareth, that attainer is larger then conviction; conviction being onely by the Iurie.

And attainer is not before judgement, *Perkins Graunts, num. 27. 29.* Yet it appeareth by *Stawf. fol. 9.* that conviction is called attainer sometime. For there hee saith, that the verdict of the Iurie doth either acquit or attaint a man: and so it is *Westm. pr. ca. 14. anno 3. Edm. 1.* This ancient law touching the conviction and purgation of Clerkes, is altered by *anno 23. Eliz. cap. 2.* as you may farther reade in *Clergie.*

Attainder (Attingit) though it be most used in matters of felonie and treason: yet is it likewise applied to inferiour transgressions, as to discipin, *Westm. 1. cap. 36. anno 3. Ed. 1.* and *Britton cap. 26.* See *Attaint*, and *Attainted.*

Attendant (attendens): cometh of the French (*attendre*) i. *demorari, operiri, expectare, praestolari*) it signifieth in our common law, one that oweth a dutie or service to another, or after a sort dependeth of another. For example, there is Lord, mesne, and tenent: the tenent holdeth of the mesne by a peny; the mesne holdeth over by two pence. The meane releaseth to the tenent all the right hee hath in the land, and the tenent dyeth. His wife shall be endowed of the land, and shee shall bee attendant to the heiro of the third part of the peny, and

not of the third part of the two pence. For she shall be endowed of the best possession of her husband. Another hath, *Kitchin, fol. 209.* in these words: where the wife is endowed by the gardian, she shall bee attendant to the gardian, and to the heire at his full age: with whom agreeth *Perkins* also, in *Dower. 424.*

Attorney (*attornatus*) cometh of the french (*tourner. i. vertere*) as (*tourner son esprit à faire quelque chose, i. animum ad rem aliquam inclinare.*) Thence cometh the participle (*tourné. i. versus, conversus*) and the Substantive (*tour. i. vices, vicissitudo*) as, *chacun à son tour. i. quilibet sua vice.*) It signifieth in our common law, one appointed by another man to do any thing in his stead, as much as (*procurator*) or (*syndicus*) in the civill law, *West. parte. 1. Symboloygr. lib. 2. sect. 559.* defineth it thus: Attorneys bee such persons, as by the consent, commandement, or request, doe take heed, see to, and take upon them the charge of other mens busines in their absence, by whom they are commanded or requested. And where it seemeth that in ancient time, those of authority in Courts, had it in their arbitrement, whether they would suffer men to appeare, or sue by any other then themselves, as is evident by *Fitz. nat. br. fol. 25.*

in the writ *Dedimus potestatem de attornato faciendo*, where it is shewed, that men were driven to procure the Kings writs or letters patents to appoint Attorneys for them: it is thence provided by Statutes, that it should be lawfull so to doe without any such circuit, as by the Statute, *anno 20. H. 3. cap. 10. anno 6. Ed. 1. cap. 8. anno 27. ejusdem. stat. 2. anno 12. Ed. 2. 1. anno 15. ejusdem. cap. unico anno 7. Ric. 2. cap. 14. anno 7. H. 4. cap. 13. anno 3. H. 5. cap. 2. anno 15. Hen. 6. cap. 7. & anno 17. H. 7. cap. 2.* is to bee proved. And you may see great diversity of writs, in the table of the *Regi. origin.* wherein the King by his writ commaundeth the Iudges to admit of Attorneys. Whereby there grew at the last so many unskilfull Attorneys, and so many mischiefes by them, that provision for restraining them was requisite. Wherefore *anno 4. H. 4. cap. 18.* it was ordained, that the Iustices should examine them, and displace the unskilfull. And againe, *anno 33. H. 6. cap. 7.* that there should bee but a certaine number of them in *Norfolke* and *Suffolke*. In what cases, a man at this day may have an Attorney, and in what not; see *Fitzb. ubi supra.* Attorney is either generall or speciall: Attorney generall is hee, that by generall authority is appointed to all our af-

fares or suits : as the Atturney generall of the King , *pl. cor. fol. 152.* which is as much as (*Procurator Caesaris*) was in the Romane Empire. Atturney generall of the Duke, *Cromptons Iurisd. fo. 105.* Atturney speciall or particular is hee, that is employed in one or more causes particularly specified. Atturneys generall, be made after two sorts : either by the Kings Letters Patents before him or the Lord Chancelour , or by our appointment before Iustices in Eyre in open court, *Glanville li. 11. cap. pri. Britton , cap. 126.* whom of this thing you may reade more at large. There be also in respect of the divers courts, Atturneys at large, and Atturneys speciall, belonging to this or that Court onely. The name is borrowed of the Normanes, as appeareth by the Custumarie, *cap. 65.* And I find the word (*Attornati*) or as some reade (*Tornati*) in the same signification in the title (*de statu regularium, ca. unico. §. Porre in sexto.*) where the glosse saith, that *Attornati dicuntur Procuratores apud acta consistuti.* Our old latine word for this seemeth to be (*responsalis*) *Bract. lib. 4. cap. 31. & lib. 5. parte 2. cap. 8.* and so it is in Scotland at this day , but especially for the Atturney of the Defendant, as (*prolocutor*) is for the Perssewer. *M. Skene de verb. significatione.*

Responsalis, as *Sigonius* witnesseth, in his first booke *De regno Italia*, was in ancient time , the title of the Popes Ambassadour, *Page 11.*

Atturney of the Court of Wards and Liveries (*Attornatus regis in curia Wardorū & Liberaturarum*) is the third office in that Court , who must be a person learned in the lawes of the Land , being named and assigned by the King. At his admission into the office, hee taketh an oath before the Master of the said Court, well and truly to serve the King, as his Attorney in all Courts, for and concerning any matter or cause, that toucheth the possessions and hereditaments limited to the Survey and government of this Court ; and to procure the Kings profit thereof : truly to counsell the King, and the Master of the Court, in all things concerning the same, to the best of his cunning, wit, and power : and with all speed and diligence from time to time at the calling of the Master, to endeavour himselfe for the hearing and determination indifferently of such matters and causes, as depend before the Master : not to take any gift or reward in any matter or cause depending in the Court, or elsewhere, wherein the King shall be partie, whereby the King shall be hurt, hindred, or disinherited : to do to his power,

wit, and cunning, all and every thing that appertaineth to his office.

Attorney of the Court of the Duchie of Lancaster, (Attornatus curie Ducatus Lancastria) is the second officer in that Court, and seemeth, for his skill in law, to be there placed as (*assessor*) to the Chancellor of that Court, being for the most part, some honorable man, and chosen rather for some especiall trust reposed in him, to deale betweene the King and his tenents, then for any great learning, as was usuall with the Emperours of *Rome*, in the choice of their Magistrates.

Attournement (attornamentum) cometh of the French (*tourner*. i. *vertere*) and in our common law, is an yielding of the tenent to a new Lord, or acknowledgement of him to be his Lord. For otherwise hee that buyeth or obtaineth any lands or tenements of another, which are in the occupation of a third, cannot get possession: yet see the statute, *an. 27. H. 8. cap. 16.* The words used in Attournment are set downe in *Litleton*. I agree mee to the grant made to you, &c. But the more common Attournment is to say: Sir, I attourn to you by force of the same grant: or, I become your tenent, &c. or else deliver unto the Grantee a peny, halfe-peny, or farthing, by way of At-

tournment, *Litleton lib. 3. cap. Attournment, 10.* whom you may reade more at large, and find that his Definition proceedeth from more Law then Logicke: because hee setteth downe divers other cases in the same chapter, whereto Attournment appertaineth as properly as unto this. But you may perceive there, that Attournment is the transposing of those duties that the tenent ought to his former Lord, unto another, as to his Lords: and also, that Attournment is either by word, or by act, &c. Also Attournment is voluntary, or else compulsory, by the writ tearmed *Per quod servitia*, *Old nat. br. fol. 155.* or sometime by Distresse, *Fitzh. nat. br. fol. 147.* Lastly, Attournment may be made to the Lord himselfe, or to his Steward in Court, *Kitchin. fo. 70.* And there is Attournment in deed, and Attournment in Law, *Coke vol. 6. fo. 113. a.* Attournment in Law, is an act, which though it be no expresse Attournment, yet in intendment of Law is all one.

(*Attornato faciendo vel recipiendo*) is a writ which a man owing suit to a Countie, Hundred, Wapentake, or other Court, and desiring to make an Attourney to appeare for him at the same Court; whom, he doubteth whether the Sheriffs or Bailiffe will admit or not for his Attourney

there, purchaseth, to command him to receive such a man for his Attourney, and admit his appearance by him. The forme, and other circumstances whereof, see in *Fitzh. nat. br. fo. 156.*

Audiendo & terminando, is a writ, but more properly termed a Commission, directed to certaine persons, when as any great assembly, insurrection, or heinous demeanure or trespass is committed in any place, for the appeasing, and punishment thereof, which you may reade at large, in *Fitzh. nat. br. fo. 110.* See also *Oyer & Terminer.*

Audience Court (*Curia audientie Cantuariensis*) is a Court belonging to the Arch-bishop of *Canterburie*, of equall authoritie with the Arches Court, though Inferiour both in dignity and antiquitie. The originall of this Court was, because the Arch-bishop of *Canterbury* heard many causes extra judicially at home in his owne Palace, in which, before hee would finally determine any thing, hee did usually commit them to be discussed by certaine learned men in the civill & canon lawes, whom thereupon be termed his Auditors. And so in time it grew to one especial man, who at this day is called (*Causarum negotiorumq; audientie Cætuariensis auditor seu officialis*). And with this office hath heretofore com-

monly been joyned the Chauncelership of the Arch-bishop, who medleth not in any point of contentious Iurisdiction, that is, deciding of causes betweene party and party (except such as are ventilated *pro forma* onely, as the confirmation of Bishops Elections, or such like) but onely of office, and especially such as are *voluntaria jurisdictionis*, as the granting of the custody of the Spiritualities, during the vacation of Bishopricks, Institutions to Benefices, dispensing with Banes of Matrimonie, and such like. But this is now distinguished in person from the Audience. Of this Audience Court, you may reade more in the booke, intituled *De antiquitate ecclesie Britannica historia.*

Audita querela, is a writ that lieth against him, who having taken the Bond called (Statute Merchant) of another, and craving or having obtained execution of the same at the Maïor and Bailiffes hands, before whom it was entred, at the complaint of the partie who entred the same, upon suggestion of some just cause why execution should not be granted; as a release, or other exception. This writ is granted by the Chaunceler of *England*, upon view of the exception suggested, to the Iustices of the Common banke, or of

the Kings Bench, willing them to grant Summons to the Sheriffe of the Countie, where the creditour is, for his appearance at a certaine day before them. See more in *Old nat. br. fo. 66.* and *Fitzh. nat. br. fo. 102.*

Auditour (*auditor*) commeth of the French (*auditour*) and in our law, signifieth an officer of the King, or some other great personage, which yearly by examining the accounts of all under officers accountable, maketh up a generall booke, that sheweth the difference betweene their receites or burthen, and their allowances, commonly called (*allocations*): as namely, the Auditors of the Exchequer, take the accounts of those Receivers, which receive the revenues of the Augmentation: as also of the Sheriffes, Escheatours, Collectours, and Customers, and set them downe and perfect them. Him that will read more of this, I referre to the *Statute, anno. 33. H. 8. ca. 33.*

Auditours of the Prests, are also officers in the Exchequer, that doe take, and make up the great accounts of *Ireland, Barwick, the Mint*, and of any mony imprested to any man.

Auditour of the Receites, is an officer of the Exchequer, that fileth the Tellers bills, and maketh an entry of them, and giveth to

the Lord Treasurer a certificate of the money received the weeke before. He maketh also (*Debenturs*) to every Teller, before they pay any money, and taketh their accounts. He keepeth the Blacke booke of the Receites, and the Treasurers key of the Treasury: and seeth every Tellers monies locked up in the new Treasury.

Aventure, is a mischance, causing the death of a man without Felonie: as when he is suddenly drowned, or burnt, by any sudden disease falling into the water or fire, *Britton ca. 7.* where you may see what it differeth from Misadventure. See *Misadventure.*

Average (*averagium*) by *M. Skenes opinio* (*verbo arage*) *ac verborum significatione*, commeth of the word (*averia.*) i. a beast, and so consequently signifieth service which the tenant oweth to the Lord, by horse, or cariage of horse. I have heard others probably derive it from the French (*ouvrage*) or (*œuvre. i. opus.*) It seemeth with us to have two divers significations: For the first, *Rassall. titulo, Exposition of words*, maketh mention of the Kings averages, which I take to be the Kings carriages by horse or cart. Then *anno 32. H. 8. ca. 14.* and *anno 1. Iacobi, ca. 32.* it is used for a certaine contribution that Merchants and others doe every man pro-

proportionably make toward their losses, who have their goods cast into the sea for the safeguard of the ship, or of the goods and liues of them in the Ship in time of a tempest. And this contribution seemeth to be so called, because it is proportioned, after the rate of every mans average or goods carried.

Aueris captis in withernam, is a writ for the taking of cattell to his use, that hath his cattell taken unlawfully by another, and driven out of the county where they were taken, that they cannot be replevied. *Register origin. fol. 82. a. b.*

Averment (verificatio) cometh of the French (*averer. i. testari.*) as *averer quelque meschancete. i. extrahere scelus aliquod in lucem ex oculis tenebris*. It signifieth (according to the Author of the termes of law) an offer of the defendant to make good, or to justifie an exception pleaded in abatement or barre of the plaintiffes act. But methinketh it should rather signifie the act, then the offer or justifying the exception, by divers places where I find it used. For example, *an. 34. Ed. 1. stat. 2.* And the demandant will offer to aver by the assise or Iurie; where to offer to aver and to aver must needs differ: and againe in the same statute, and the demandant will offer to averre by

the country, &c. thirdly in the english, *nat. br. f. 57.* These errors shall be tried by averment, &c.

Averpennie (quasi Average penne) is money contributed toward the Kings averages. *Rastall* exposition of words. See *Average*.

Augmentation (augmentatio) was the name of a court, erected the seven and twentieth year of *Henry the 8.* as appeareth by the 27. chapter of that yeares parliament. And the end thereof was, that the King might be justly delt with touching the profit of such religious houses and their lands, as were given unto him by act of parliament the same yeare not printed. For the dissolving of which court, there was authority given to *Queene Mary*, by the Parliament held the first yeare of her raigne, *ses. 2. cap. 10.* which she afterward put in execution by her letters 'patents'. The name of the court grew from this, that the revenues of the Crowne were augmented so much by the suppression of the said houses, as the King reserved unto the Crowne, and neither gave nor sold away to others.

Aulne of Renish wine. a. 1. Ed. 6. cap. 13. aliàs, Arme of Renish wine. 1. Iaco. ca. 33. is a vessell that containeth fourty gallons.

Aulnegowr. See *Alnegor*.
Avo, is the name of a writ for the which see (*Ayle*.)

Awnsell weight, as I have beene informed, is a kind of weight with scoles hanging, or hookes fastened at each end of a staffe, which a man listeth up upon his forefinger, or hand, and so discerneth the equality or difference betweene the weight and the thing weighed. In which, because there may, and was wont to be great deceit, it was forbidden, anno 25. *Edw. 3. stat. 5. ca. 9.* & anno 34. *eiusdem, cap. 5.* and the even ballance onely commanded; yet a man of good credit, once certified mee, that it is still used in Leaden Hall at London among Butchers, &c. In the derivation of this word, I dare not bee over confident. But it may probably be thought to bee called (*awnsell weight, quasi hand sale weight*) because it was and is performed by the hand, as the other is by the beame. And if I should draw it from the Greeke, *αὐχὼν*. i. *cubitus*. the part of the arme from the elbow to the fingers ends, I might challenge a good warrant of this from the Romans; who thence derived their (*ancile*) i. the luckie shield, that was said to bee sent from heaven in a tempest to *Numa Pompilius*, together with a voice, that the citie of Rome should be the mightiest of all others, so long as that shield remained in it.

Auncient demeasne, (*antiquum dominicum*) is called (more at large) auncient demeasne of the King or of the Crowne. *Fitz. nat. br. fol. 14. d.* It commeth of two French words (*auncien*. i. *veter, vetus, veteranus, antiquus*) and of (*demeasne, aliàs domaine. i. publicum vectigal*) It signifieth in our common law, a certaine tenure, whereby all the mannors belonging to the Crowne, in the dayes of *Saint Edward*, the Saxon King, or of *William* the Conquerour, did hold. The number and names of which mannors, as all other belonging to common persons, he caused to bee written into a booke, after a survey made of them, now remayning in the Exchequer, and called Domesday booke. And those, which by that booke doe appeare, to have belonged to the Crowne at that time, and are contained under the title (*Terraregis*) be called auncient demeasne. *Kitchin, fol. 98.* and *M. Gwin.* in the Preface to his readings. Of these tenents there were two sorts, one that held their land frankely, by charter, and another that held by copie of court roll, or by verge, at the wil of the Lord, according to the custome of the mannor. *Fitz. nat. br. f. 14. d.* of which opinion also *Britton* is, *ca. 66. nu. 8.* The benefit of this tenure, consisteth in these points: first, the tenents of a mannor holding

ding freely by Charter in this sort, cannot be impleaded, out of the same manner: and if they be, they may abate the writ, by pleading their tenure before or after answer made. Secondly, they be free of tolle for all things concerning their sustenance and husbandry. Thirdly, they may not bee empaneled upon any enquest. Termes of the law: but more at large by *Fitzh. nat. br. fol. 14. d.* whom reade, as also *fo. 128. a. & c.* And as it appeareth by him, *eadem fol. 4. B. C.* these tenents held by the service of plowing the Kings land, by plashing his hedges, or by such like, toward the maintenance of the Kings household; in which regard they had such liberties given them, wherein, to avoid disturbance, they may have writs to such as take the duties of Tolle in any Market or Faire; as likewise for immunity of portage, passage, and such like. *Fitz. nat. br. fol. 228. A. B. C. D.* by which Author it also appeareth, that no lands bee to bee accounted Ancient demeasyn, but such as are holden in socage, *fol. 13. D. & 14. B. C.* See *Monstraverunt*, and *Fitzh. fol. 14.* and *Deffendo quietum de telonio, fol. 226.* *Fleta* maketh three tenures holding of the Crowne: Ancient demeasyn, by Escheate, and by Purchase, *li. 1. ca. 20.* See *Demaine.*

Auncient Demeasyn arere (anti-

quum dominicam à retro) is that ancient demeasyn, which the King granteth over to hold of a manor. *Kitchin. fol. 67. b.*

Avowè (advocatus) see *Advowè.* *Britton* saith that *Avowè* is hee, to whom the right of Advowzen of any Church appertaineth, so that hee may present thereunto in his owne name, and is called *avowè* for a difference from those, that sometime present in another mans name: as a Gardian that presenteth in the name of his Ward, and for a difference also from them, which have the lands whereunto an advowzen appertaineth, but onely for terme of their lives, or of yeares, or by intrusion or disseisin. *ca. 92.*

Avowrie. See *Advowrie.*

Avoir de pois, is in true french (*avoir du poix. i. habere pondus, ant. justie esse ponderis.*) It signifieth in our common law, two things: first, a kind of weight divers from that, which is called Troy weight, containing but twelue ounces to the pound, whereas this containeth sixteene. And in this respect it may be probably conjectured, that it is so called, because it is of more weight then the other. Then also it signifieth such merchandize, as are weighed by this weight, and not by Troy weight, as in the statute of *Yorke. anno 9. Ed. 3. in procm. anno 27. Ed. 3. Statut. 2. ca. 10. et anno 2.*

Rich. 2. cap. 1. See Weights.

Auxilium ad filium militem faciendum, & filiam maritandam, is a writ directed to the Sheriffe of every County, wherethe King or other Lord hath any tenents, to levie of them reasonable ayde toward the knighting of his Son, and the mariage of his daughter. See *Ayde*, and *Fitzh. nat. br. fol. 82.*

B

Bachelor (*Bachalaureus*) cometh of the French (*Bachelier* i. *tyro*) and thereupon I think, those that be called Bachelers of the Companies in London, be such of each Company, as be springing towards the estate of those that be employed in Councell, but as yet are Inferiours. For every Company of the twelve, consisteth of a Master, two Wardens, the Liverie, which are Assistants in matter of Councell, or at the least, such as the Assistants be chosen out of, and the Bachelers, which are yet but in expectation of dignitie among them, and have their function onely in attendance upon the Master and Wardens. I have read in an old Monument, this word *Bachelor*, attributed to the Lord Admirall of England, if hee be under a Baron, in French words to this effect: and it is to weete, that when the Admirall rideth to assemble a Ship of Warre, or other, for

the businesse, and affaires of the Realme, if hee be a Bachelor, hee shall take for his day wages, 4. s. sterling: if he be an Earle or Baron, he shall take wages after the rate of his estate and degree. This word is used, *anno 13. R. 2. stat. 2. cap. 1.* & signifieth as much as Bachelor Knight doth, *anno 3. Ed. 4. cap. 5.* that is, a simple Knight, not a Knight Baneret. See *Baneret*. Touching the farther etymologie of this word, *Bachalarii, teste Renano, à bacillo nominati sunt, quia primi studii auctoritatem, quæ per exhibitionem baculi concedebatur, jam consecuti fuissent. Ut fuerit velut quoddam mancipationis signum in huiusmodi aliquod studium baculi traditio. Alciat writeth the word (baccalaurei, eosque dicit visos à bacca laurea nomen sumpsisse in l. cui præcipua § 7. π. de verbo. significa.*

Backberond, is a Saxon word, and almost English at this day, signifying as much as bearing upon the backe, or about a man. *Bracton* useth it for a signe or circumstance of manifest theft, which the Civilians call, *Furtum manifestum*. For dividing (*furtum, in manifestum & non manifestum*) he defineth (*furtum manifestum*) in this sort: *Furtum verò manifestum est, ubi latro deprehensus est scissus de aliquo latrocinio: sc. hand habend & backberend, & insecutus fuerit per aliquem cujus res illa fuerit. l. 3. tract.*

tract. 2. cap. 32. Master *Manwood* in the second part of his *Forest lawes*, noteth it for one of the foure circumstances, or cases, wherein a Forester may arrest the body of an offender against vert or venison in the Forest. For by the Assise of the Forest of Lancaster (saith he) taken with the manner is, when one is found in the Kings Forest in any of these foure degrees: *sc:* Stable stand, Dogge draw, Backe beare, and Bloudie hand. In which place you may find all these interpreted.

Badger, commeth of the french (*bagage. i. sarcina, impedimentum*) It signifieth with us, one that buyeth corne or victuals in one place, and carieth it into another. See *Cromptons* Iustice of Peace, fol. 69. & 70.

Baye, or Penne, is a Pond-head made up of a great height to keep in a great quantity or store of water, so that the wheelles of the fornice or hammer belonging to an Iron Mill may stand under them, and bee driven by the water comming out of them by a passage, or Floud-gate (called the *Penstocke*) and falling upon the said wheelles. This word is mentioned in the statute, anno 27. Eliz. cap. 19.

Bayle, (*Ballium, plevina, manucaptio*) commeth of the French (*basler, i. attribuere, tradere, tribuere.*) It is used in our common

Law, properly for the freeing or setting at liberty of one arrested or imprisoned upon action either civill or criminall, under suretie taken for his appearance at a day and place certainly assigned, *Bracton lib. 3. tract. 2. cap. 8. num. 8. & 9.* The reason why it is called *Bayle*, is, because by this meanes the partie restrained, is delivered into the hands of those that binde themselves for his forth-comming. There is both common & speciall bayle. Common bayle, is in Actions of small prejudice, or slight prooffe: being called common, because any Sureties in that case are taken: whereas upon causes of greater weight, or apparent spcialtie, speciall baile or suretie must bee taken: as Subsidy men at the least, and they according to the value. Master *Manwood* in his first part of *Forest lawes*, pag. 167. maketh a great difference betweene bayle and mainprise, in these words: And note that there is a great diversitie betweene bayle and mainprise. For he that is mainprised, is alwaies said to be at large, and to goe at his own liberty, out of ward, after that he is let to mainprise, untill the day of his appearance, by reason of the said common summons, or otherwise. But otherwise it is, where a man is let to bayle, by foure or two men, by the Lord

chiefe Iustice in the Eyre of the Forest, untill a certaine day. For there hee is alwaies accounted by the law, to be in their ward and custody for the time. And they may, if they will, keepe him in ward or in Prison at that time, or otherwise at their will. So that hee which is so Bailed, shall not be said, by the law, to be at large, or at his owne liberty. See *Lamberds Eirenar. li. 3. ca. 2. pag. 330.* Bayle, is also a certaine limit within the Forest, accordingly as the Forest is divided into the charges of severall Foresters. *Crompton* in the Oath of the Bow-bearer, *fol. 201.* See *Maynprife.*

Bailiffe (ballivus) commeth of the French (*bailif. 1. diacetes, nomarcha, prafectus Provincia*) and as the name, so the office it selfe, in ancient time, was very answerable to that of France and Normandy: for as in France there be sixteene Parlements, (*Lupanus de Magistratibus Francorum, lib. 2. cap. Parlamentum*) which be high Courts, whence lyeth no Appeale: and within the precincts of those severall parts of that Kingdome, that belong to each Parliament, there be severall Provinces, unto which, within themselves, justice is ministred by certaine officers called Bailiffes: So in England wee see many severall Counties, or Shires, within the

which, justice hath been ministred to the Inhabitants of each Countie, by the officer whom wee now call Sheriffe or Vicount (one name descending from the Saxons, the other from the Normans.) And though I cannot expressly prove, that this Sheriffe was ever called a Bailiffe: Yet is it probable, that that was one of his names likewise, because the Countie is called many times (*Balliva*) that is, a Bayliwick: as namely, in the returne of a writ with (*Non est inventus*) he writeth thus: *A. S. infra scriptum, non est invectus in Balliva mea, post receptionem huius brevis*) *Kitchin returna brevium. fo. 258.* and againe in *Bracton, lib. 3. tract. 2. cap. 33. num 3. and anno 5. Eliz. cap. 23. and anno 14. Edw. 3. stat. 1. cap. 6.* And I thinke the word (*Bailiffe*) used *cap. 28. of Magna charta*, compriseth as well Sheriffes, as Bailiffes of Hundreds: as also, *anno 14. Ed. 3. stat. 1. cap. 9.* But as the Realme is divided into Counties; so every Countie is againe divided into Hundreds: within the which, it is manifest, that in ancient time the Kings Subjects had justice ministred unto them by the severall Officers of every Hundred, which were called Bailiffes, as those officers were and are in France and Normandie, being chiefe Officers of justice within every

every Province, *Lupanus de Magistratibus Francorum, lib. 2. cap. Balivi.* and the Grand Customary of Normandy, *cap. 1.* And that this is true among many others, I bring *Bracton* for my witnesse, *li. 3. tract. 2. cap. 34. nu. 5.* where it appeareth that Bailiffes of Hundreds might hold plee of Appeale and Approvers. But sithence that time, these Hundred Courts (certaine Franchises excepted) are by the Statute, *anno 14. Ed. 3. stat. 1. cap. 9.* swallowed into the Countie Courts; as you may reade in *Countie and Hundred.* And the Bailiffes name and office is growne into such contempt, at the least, these Bailiffes of Hundreds, that they are now but bare Messengers and Mandataries, within their liberties to serve Writs, and such base offices: their office consisting in three points onely, which see in *Cromptons Iustice of Peace, fol. 49. a.* Yet is the name still in good esteeme some other way. For the chiefe Magistrates in divers Townes Corporate be called Bailiffes: as in *Ipswich, Yarmouth, Colchester,* and such like. And againe, there be certaine, to whom the Kings Castles be committed, which are called Bailiffs, as the Bailiffe of *Dover Castle.*

These ordinary Bailiffes are of two sorts: Bailiffes Errant, and Bailiffs of Franchises. Bailiffs Er-

rant (*Ballivi itinerantes*) be those, which the Sheriffe maketh, and appointeth to goe hither and thither in the County to serve writs, to summon the County, Sessions, Assises and such like. Bailiffes of Franchises (*Ballivi Franchesarum aut libertatum*) be those, that are appointed by every Lord within his liberty, to doe such offices within his Precincts, as the Bailiffe Errant doth at large in the Countie. Of these reade *S. Thomas Smith de repub. Anglo. lib. 2. cap. 16.* There be also Bailiffes of the Forest, *Mamwood, par. 1. pa. 113.* There be likewise Bailiffes of Husbandry, belonging to private men of great Substance, who seeme to be so called, because they dispose of the under Servants, every man to his labour and taske, checke them for misdoing their businesse, gather the profits to their Lord and Master, and deliver an account for the same at the yeares end, or otherwise, as it shall be called for. The word *Bailiffe*, or *Ballivus*, is by *Rebuffus* derived from (*Baal. i. dominus, quia Ballivi dominantur suis subditis, quasi eorum magistri & domini. Rebuff. in constit. regias, de senten. executionis, art. 7. glos. 1.* The office or duty of a Bailiffe of a Manner or Houshold (which in ancient time seemeth to have beene all one) *Fleta* well describeth, *li. 2. ca. 72, & 73.* This word

is also used in the Canon law, *ca. dilecto. de sentent. excom. in sexto & ca. primo de penis in Clement.* where the Glossographer saith, it is a French word, signifying as much as (*Prepositus*) & (*Balia*) or (*Balivatus*) is used among our later Interpreters of the Civill and Canon law, for *Provincia*, as *Baliva* here in England, is used for a Countie or Shire.

Balkers. See *Conders.*

Balivo amovendo, is a writ to remove a Bailiffe out of his office for want of sufficiēt living within his Bayliwick, *Reg. or. fo. 178.*

Bane, seemeth to signifie the destruction or overthrow of any thing, *Bracton lib. 2. tract. 2. ca. 1. nu. 1.* as hee which is the cause of another mans drowning, is said there to be *La bare. i. Malefactor.* In that, *Bracton*, in the place aforesaid, prefixeth a French Article to this word, it should seeme by his opinion, that the word is French, but I find it not in any French writer that ever I read.

Baneret (banerettus) in *M. Skenes* opinion, seemeth to be compounded of (*Baner*) and (*Rent*) whom reade more at large of this, *verbo. Banerret. de verbo sign.* but our *M. Camden* rather draweth the word from the German (*Bannerheires. Brittan. pag. 109. in meo libro. S. Thomas Smith de repub. Anglo. li. ca. 18.* saith that Banerret is a Knight made in the

Field, with the ceremonie of cutting off the point of his Standard, and making it, as it were a Banner. And they being before Bachelers, are now of greater degree, allowed to display their Armes in a Banner in the Kings Army, as Barons doe. *M. Camden ubi supra*, hath these words of this matter: *Baneretti cum vassalorum nomen jam desierat à baronibus secundi erant: quibus inditum nomen à vexillo. Cōcessum illis erat militaris virtutis ergo, quadrato vexillo (perinde ac barones) iur. unde & equites vexillarii à nonnullis vocātur, &c.* Of creating a knight Banerret, you may reade farther in *M. Segar. Norrey* his booke, *li. 2. cap. 10.* That they be next to Barons in dignitie, it appeareth by the statute, *anno 14. R. 2. c. 11.* & by *anno 5. R. 2. stat. 2. ca. 4.* it may be probably conjectured, that they were anciently called by Summons to the Court of Parliament. And *anno 13. R. 2. stat. 2. ca. 1.* we find, that a Banerret for praying a pardon for a Murtherer, contrary to that statute, is subject to all one punishment with a Baron, *Iohan. Gregorius Tholosanus, li. 6. ca. 10. sui syntagmatis num. 9.* hath these words: *In Gallia sunt due species affines nobilium & feudorum, quas dicunt de benneretz & barons, Bennerettus jure sua dignitatis, antiquā talis dici mereatur, nobilis esse debet genere, in quarto gradu, possidens*

dens in ditione decem scutarios bachalarios armorū: id est, decem vassallos; habens sufficiens patrimoniu, quo possit secum ducere quatuor aut quinque nobiles comites continuos, cum equitibus duodecim aut sexdecim. Fit autem Benneretus, cum princeps huiusmodi persone concedit vexilli jns, & ex vexillo peditum in acie, vel extra, die solenni, sacris peractis, adimit acumina. Vocant la queue de pennon, sitq; labarum, id est equitum vexillum, vocant cornette eumq; equitem facit, si jam non est. Quod si ditior his fiat benneretus, et habet unam benneretam, aut sex equites bachalarios, qui possideant singuli in censum sexcentas libras ex ejus ditione seu feudo, tunc possunt ex licentia principis, baronis nomen sibi adsciscere.

Bans (*bannus vel bannum*) significeth a publike notice given of any thing. The word is ordinary among the Feudists, and growne from them to other uses: as to that which wee here in England call a Proclamation, whereby any thing is publikeley commanded or forbidden, *Vincentius de Franchis. de scis. 521. & 360.* *Hotoman verbo bannus, in verbis feudalibus*, saith that there is both (*bannus*) & (*bannum*) and that they signifie two divers things. His words are these: *Bannus siue bannum duo significat: Edictum, quod die vassalli equis armisq; instructi, ad comitatum adesse debent: & sanctionem, hoc est,*

multam edicto non parentis; which he confirmeth by divers authorities. This word (*bans*) wee use here in England, especially in the publishing of Matrimoniall contracts in the Church, before marriage, to the end that if any man can say against the intention of the parties, either in respect of kindred, or otherwise, they may take their exception in time. And in the Canon law, *Banna, sunt proclamationes sponsi & sponse in ecclesiis fieri solite. ca. 27. extra de sponsal. & ca. ult. qui matrimonium accus. pos. & ca. ult. de clan. despons.* Yet our word (*banning*) seemeth to come thence, being nothing but an exclamation of another. One-ly *Bracton* once maketh mention of *Bannus Regis*, for a Proclamation, or silence made by the Crier, before the congreffe of the champions in a combate, *lib. 3. tract. 2. ca. 21.*

Bank (*bancus*) commeth of the French (*banque. i. mensa*) In our common law, it is most usually taken for a seat or bench of judgement, as *Bank le Roy*, the Kings Bench; *Bank de common plees*, the Bench of common Plees, or the common Bench, *Kitchin fol. 102.* called also in latine *bancus regius, & bancus communium placitorum.* *Crompt juris. f. 67. & 91.* *Camden* in his *Britannia* pa. 112. & 113. in meo, calleth them also *Bancum Regium, & Bancum commune.*

See *Frank bank*.

Bankrupt, (*aliàs bankrupt*) cometh of the french (*banque ronte*) and (*faire banqueroute*) with the french, is as much as (*foro sedere, solum vetere*) with the Romanes: The composition of the french word I take to be this (*banque. i. mensa*) & (*ronie. i. vestigiū*) metaphorically taken from the signe left in the earth, of a table once fastened unto it, and now taken away. So that the original seemeth to have sprung frō those Romane (*mensarii*) which (as appeareth by many writers) had their (*tabernaculū & mensas*) in certaine publike places, whereof, when they were disposed to flie, and deceive men that had put them in trust with their monies, they left but the signes or carkasses behind them. I know that others of good learning (and *M. Skene* for one) bring this (*a bancrupto*) but the French word worketh in me this other opinion, for after their sense, the French should rather be *banque rompu*. Bankrupt with us signifieth him or his act, that having gotten other mens goods into his hands, hideth himselfe in places unknowne, or in his owne private house, not minding to pay or restore to his creditours their duties, *anno 34. H. 8. cap. 4.* where the french phrase (*faire banqueroute*) is translated to the word, to make Bankrupt. A

Bankrupt, *anno 1. Jacobi, ca. 15.* is thus described: All and every such person and persons, using, or that shall use the trade of Merchandise, by way of bargaining, exchange, bartery, chevifance, or otherwise in grosse, or by seeking his, her, or their trade of living by buying and selling, and being a subject borne of this Realme, or any the Kings Dominions, or Denizen, who at any time sithence the first day of this present Parliament, or at any time hereafter, shall depart the Realme, or begin to keepe his or her house or houses, or otherwise to absent him or her selfe, or take Sanctuary, or suffer him or her selfe willingly to be arrested for any debt or other thing, not growne, or due for money delivered, wares sold, or any other just or lawful cause, or good consideration, or purposes, or hath, or will suffer him or her selfe to be outlawed, or yield him or her selfe to prison, or willingly, or fraudulently, hath, or shall procure him or her selfe to be arrested, or his or her goods, money, or chattels to be attached or sequestred, or depart from his or her dwelling house, or make, or cause to be made, any fraudulent grant, or conveyance of his, her, or their lands, tenements, goods or chattels, to the intent, or whereby, his, her, or their creditours, being Subjects borne, as afore-

foresayd, shall or may bee defeated or delayed for the recovery of their iust and true debt: or being arrested for debt, shall after his or her arrest, lye in prison fixe moneths or more, upon that arrest, or any other arrest or detention in prison for debt, and lye in prison fixe moneths upon such arrest or detention, shall bee accounted and adjudged a Bankrupt to all intents and purposes.

Banishment (exilium, abjuratio) commeth of the French (*bannissement*) and hath a signification knowne to every man. But there be two kinds of banishments in *England*: one voluntary and upon oath, whereof you may reade (*Abjuration*): the other upon compulsion for some offence or crime: as if a lay-man succor him that having taken Sanctuarie for an offence, obstinately refuseth to abjure the Realme, hee shall loose his life and member: if a Clerke doe so, he shall be banished, *Stawf. pl. cor. fol. 117*. This punishment is also of our moderne Civilians called (*bannimentum*) which was aunciently tearmed (*deportatio*) if it were perpetuall, or (*religatio in insulam*.) if for a time, *Vincentius de Franchis. Petrus de Belluga in suo speculo. fol. 125. num. 4.*

Barbaries (Oxycantha) is a thornie shrub knowne to most

men to beare a berry or fruit of a sharp taste. These berries (as also the leaves of the said tree) be medicinal, as *Gerard* in his Herball sheweth, *lib. 3. cap. 21*. You find them mentioned among Druggs to bee garbled, *Anno 1. Iacob. cap. 19.*

Bard, aliàs Beard. See *Clack*.

Bargaine and Sale, as it seemeth by *West. part. 1. symb lib. 2. sect. 436*. is properly a contract made of mannors, lands, tenements, hereditaments, and other things, transferring the propertie thereof from the bargainer to the bargaine. But the Author of the new termes of Lawe addeth, that it ought to bee for money: saying farther, that this is a good contract for land, &c. and that Fee-simple passeth thereby, though it bee not said in the deed (To have and to hold the land to him and to his heyres,) and though there bee no liverie and seisin made by the seller, so it bee by deed indented, sealed, and enrolled, either in the Countie where the land lyeth, or within one of the Kings Courts of Records at Westminster, within fixe moneths after the date of the Deed indented, *anno 27. H. 8. cap. 16.*

Barkarie (Barkaria) is a heath house. New booke of Entries, *titulo. Assise corp. polit. 2*. Some call it a Tanne-house.

Baron (*Baro*) is a French word, and hath divers significations here in *England*. First, it is taken for a degree of Nobilitie next unto a Vicount, *Bracton lib. 1. cap. 8. num. 4.* where hee saith, they be called *Barones, quasi robur belli*. And in this signification it is borrowed from other Nations, with whom *Baronia* be as much as *Provincia*. *Petrus Bellugain speculo princip. fol. 119.* So *Barones* bee such, as have the government of Provinces, as their Fee holden of the King: some having greater, some lesser authoritie within their territories, as appeareth by *Vincentius de Franchis* in divers of his disceisions, and others. Yet it may probably be thought, that of old times here in *England* all they were called Barons that had such Seigniories, as we now call Court-barons, as they bee at this day called Seigneurs in *France*, that have any such Mannor or Lordship. Yea, I have heard by men very learned in our Antiquities, that neere after the Conquest, all such came to the Parliament, and sate as Nobles in the upper house. But when by experience it appeared, that the Parliament was too much pestered with such multitudes: it grew to a custome, that none should come but such, as the King, for their extraordinary wisdom or qualitie, thought good to call by writ;

which writ ranne (*hac vice tantum.*) After that againe men seeing this estate of Nobility to bee but casuall, and to depend meere-ly upon the Princes pleasure, they sought a more certaine hold, and obtained of the King, letters patents of this dignity to them and their heires male. And these were called Barons by letters patents or by creation: whose posterity, bee now by inheritance and true descent of Nobility, those Barons that bee called Lords of the Parliament: of which kind the King may create more at his pleasure. It is thought neuerthelesse, that there are yet Barons by writ, as well as Barons by letters patents, and that they may be discerned by their titles: because the Barons by writ are those, that to the title of *Lord* have their owne surnames annexed, as *Compton, North, Norice*, &c. whereas the Barons by letters patents, are named by their Baronies. These Barons which were first by writ, may now justly also bee called Barons by prescription, for that they have continued Barons in themselves and their auncestors time, beyond the memory of man. The originall of Barons by writ *Master Camden* in his *Britannia*, pag. 109. in *meo*, referreth to *Henry* the third: Barons by letters patents or creation (as I have heard among

our Anti quaries) were first created about the dayes of *Henry* the sixth : the manner of whose creation reade in *Master Stowes Annals*, pag. 1121. Of all these you may also reade *Master Ferrus* glorie of Generositie, pa. 125. & 126. And see *M. Skene de ver. signif. verb. Baro.* with Sir *Thomas Smith lib. 1. de repub. Anglor. cap. 17.* who saith, that none in England is created Baron, except hee can dispend a thousand pound by yeare, or a thousand markes at the least. To these former *Master Seager* (by office) *Norrey, lib. 4. cap. 13.* of *Honour civill and militarie*, addeth a third kind of Baron, calling them Barons by tenure, and those be the Bishops of the land : all which, by vertue of Baronries annexed to their Bishopricks, have alwaies had place in the upper house of Parliament, and are termed by the name of Lords Spirituall.

Baron in the next signification is an Officer : as Barons of the Exchequer be to the King : of which the principall is called Lord chiefe Baron (*capitalis Baro*) and the three other (for so many there be) are his Assistants in causes of Iustice, betweene the King and his subjects, touching causes appertaining to the Exchequer.

The Lord chiefe Baron at this day, is the chiefe Iudge of the

Court, and in matter of Law, Information, and Plea, answereth the Barre, and giveth order for judgement thereupon. Hee alone in the Terme time doth sit upon *Nisi prius*, that come out of the Kings Remembrancers office, or out of the office of the Clerke of the Pleas, which cannot be dispatched in the mornings for want of time. Hee taketh recognisances for the Kings debts, for appearances, and observing of orders. Hee taketh the presentation of all the officers in Court under himselfe, and of the Maior of London, and seeth the Kings Remembrancer to give them their oathes. He taketh the declaration of certaine receivers accounts of the lands of the late augmentation, made before him by the Auditors of the Shires. Hee giveth the two parcell makers places by vertue of his office.

The second Baron in the absence of the Lord chiefe Baron, answereth the Barre in matters aforesaid : he also taketh recognisances for the Kings debts, appearances, and observing of orders. Hee giveth yearly the oath to the late Maior and Escheatour of London for the true account of the profits of his office. He taketh a declaration of certaine receivers accounts. Hee also examineth the letters and summes of such Sheriffes forraine accounts,

counts, as also the accounts of Escheatours and Collectours of Subsidies and Fifteenes, as are brought unto him by the Auditors of the Court.

The third Baron in the absence of the other two, answereth the barre in matters aforesaid, hee also taketh recognisances, as aforesaid. He giveth yearly the oath of the late Maior and Gawger of London for his true accounting. He also taketh a declaration of certaine receivers accounts: and examineth the letters, and sums of such of the former accountants, as are brought unto him.

The fourth Baron, is alwaies a Coursetour of the court, and hath beene chosen of some one of the clerks in the remembrancers offices, or of the clerke of the Pipes office. Hee at the daies of prefixion, taketh oath of al high Sheriffs and their under Sheriffes, and of all Escheatours, Bailiffes, & other accountants, for their true accounting. He taketh the oath of al Collectours, Controulers, Surveyours and Searchers of the Custom houses, that they have made true entrances in their bookes. He appoyneth all Sheriffes upon their Summons of the Pipe in open Court. Hee informeth the rest of the Barons, of the course of the Court in any matter that concerneth the Kings Prerogative. He likewise, as the other Barons, taketh the

declaration of certaine receivers accounts: and examineth the letters and sums of such of the former accountants, as are brought unto him.

These Barons of the Exchequer, are ancient officers: for I find them named, *Westm. 2. cap. 11. anno 13. Ed. 1.* and they be called Barons, because Barons of the realme were wont to be employed in that office, *Fleta li. 2. ca. 24. S. Thomas Smith* saith of them, that their office is to looke to the accounts of the Prince: and to that end, they have Auditors under them: as also to decide all causes, appertaining to the Kings profits, comming into the Exchequer by any meanes. This is in part also proved by the statute, *anno 20. Ed. 3. ca. 2. & anno 27. e. iusd. stat. 2. ca. 18. & anno 5. R. 2. stat. 1. ca. 9. & 12. & anno 14. e. iusd. ca. 11.* And hereupon they be of late, men learned in the common law of the realme: whereas in ancient times they were others: *viz. maiores & discretiores in regno sive de clero essent, sive de curia.* Ockam in his lucubrations *de fisci regiratione.* Horn in his *mirrour* of Iustices saith, that Barons were wont to be two, and they Knights, *ca. De la place del Eschequer.*

Then be there in this signification, Barons of the Cinque Ports, *anno 31. Ed. 3. stat. 2. ca. 2.*

& anno 33. H. 8. cap. 10. which are two of every of the seven towns, *Hastings, Winchelsey, Rye, Rummey, Huhe, Dover, and Sandwich*, that have places in the lower house of Parliament, *Cromptons jurisd. fo. 28.* Baron in the third signification, is used for the husband in relation to his wife: which is so ordinary in all our law writers, that write in French, as it were superfluous to confirme it by any one.

Baronet. I readethis word, *an. 13. R. 2. stat. 2. ca. 1.* But I hold it falsely printed for *Baneret*, or else to signifie all one with it.

Baronye (baronia, baronagium) is the fee of a Baron. In which account are not onely the fees of Temporall Barons, but of Bishops also: who have two respects: One, as they are Spirituall men, without possessions, as was the Tribe of *Levie* among the Israelites, being susteined by the onely First fruits, and Tenths of the other Tribes, *Iosue. ca. 13. vers. 14.* The other respect they have, groweth from the bountie of our English Kings, whereby they have Baronies at the least, and are thereby Barons or Lords of the Parliament. This Baronie (as *Bracton* saith, *li. 2. ca. 34.* is a right indivisible: and therefore if an Inheritance be to be divided among Co-parteners: Though some capitall messuages may be

divided: yet, *sic caput a le messuagium sit caput Comitatus, vel caput Baronie*, he saith they may not be parcelled: The reason is, *ne sic caput per plures particulas dividatur, & plura jura comitatum & baroniarum deveniant ad nihilum: per quod deficiat Regnum, quod ex Comitibus & Baronibus dicitur esse constitutum.*

Barre (barra) commeth of the French (*barre*) or *barriere* (i. *repa-galum, obex, veltis.*) It is used in our common law, for a peremptory exception against a Demand or plaint: and is by the Author of the termes of law, defined to be a Plee brought by the Defendant in an Action, that destroyeth the Action of the Plaintiffe for ever. It is divided into a Barre to common intent, and a Barre speciall. A Barre to a common intendment, is an ordinary or generall Barre, that ordinarily disableth the Declaration or Plee of the Plaintiffe. A Barre speciall, is that which is more then ordinary, and falleth out in the case in hand, or question, upon some speciall circumstance of the fact, *Plowden, casu Colchirsh. fol. 26. a. b.* For example, an Executor being sued for his Testators debt, pleadeth, that hee had no goods left in his hands, at the day when the writ was purchased or taken out against him. This is a good barre to common intendment, or (*pri-*

the will of the Lord, *Kitchin fol. 41.* seemeth to make base tenure and francke to be contraries : where it appeareth, that hee putteth Copie holders in the number of base tenants. And out of these, I thinke, that it may be probably conjectured, that every base tenant holdeth at the will of the Lord, but yet, that there is a difference betweene a base estate, and villenage ; which *Fitzb.* in his *nat. br. f. 12. B. C.* seemeth to confound. For the above named Author of the termes of law saith in the place before cited, that to hold in pure villenage, is to doe all that the Lord will command him. So that if a Copie-holder have but base estate, he not holding by the performance of everie commandement of his Lord, cannot be said to hold in villenage. Whether it may be said, that Copie holders, be by custome and continuance of time, growne out of that extreame servitude, wherein they were first created, I leave to others of better judgement : but *Fitz. loco citato* saith, tenure by Copie is a terme but lately invented.

Base Court, is any Court that is not of record, as the Court baron. Of this read *Kitchin f. 95. 96. &c.*

Base fee. See *Base estate.*

Baselard (bastardus) in the *statut. anno 12. R. 2. ca. 6.* signifieth a weapon, which *M. Speight* in his

exposition upon *Chawcer*, calleth *pugionem vel sciam.*

Bastard (bastardus) See *Bastardy.* And see *Skene de verbo signif. verbo Bastardus.*

Bastardy (bastardia) commeth of the French (*bastard i. nothus*) *Cassanens de consuetu. Burg. pag. 1116.* saith (*bastard*) and (*filius naturalis*) be all one. *Bastardy* in our common law, signifieth a defect of birth, objected to one begotten out of wedlock. *Braet. l. 5. ca. 19. per totum.* How *Bastardy* is to be proved, or to be inquired into, if it be pleaded, see *Rastals* booke of Entries, *tit. Bastardy. fol. 104. Kitchin fol. 64.* maketh mention of *Bastardy* speciall, and *Bastardy* generall. The difference of which is, that *Bastardy* generall, is a Certificate from the Bishop of the Diocesse to the Kings Iustices, after just enquiry made, that the party inquired of, is a *Bastard* or not a *Bastard* upon some question of inheritance. *Bastardy* speciall, is a suite commenced in the Kings Court, against him that calleth another *Bastard*: so termed (as it seemeth) because *Bastardy* is the principall and especiall case in triall, and no inheritance contended for. And by this it appeareth, that in both these significations, *Bastardy* is rather taken for an examination or triall, whether a mans birth be defective or illegitimat, then

it selfe. See *Broke. titulo. Bastardy.*
n. 29. and *Doctor Ridlies booke.*
pa. 203. 204.

Baston, is in french a staffe,
 club, or coulestaffe. It signifieth
 in the statutes of our Realme, one
 of the Warden of the Fleet his
 servants or officers, that attend-
 eth the Kings court with a red
 staffe, for the taking of such to
 ward, as bee committed by the
 court. So it is vsed. *anno 1. R. 2. ca.*
12. anno 5. Eliz. ca. 23.

Batable ground, seemeth to be
 the ground in question heereto-
 fore, whether it belonged to *Eng-*
land or *Scotland*, lying betweene
 both the kingdoms. *anno 23. H.*
8. ca. 16. as if we should say, de-
 batable ground. For by that
 name *M. Skene. de verbo. sign. ver-*
bo Plegius. calleth ground, that is
 in controversie betweene two.

Battell (duellum) commeth of
 the French (*bataille. i. bellum, præ-*
lium) and signifieth in our comon
 lawe, a triall by combate. The
 maner wherof because it is long,
 and full of ceremonies, I doe
 for the better and more full vn-
 derstanding of it, referre you to
Glanvile, lib. 2. cap. 3. 4. 5. to *Br-*
eton, lib. 3. tract. 2. cap. 21. fol. 140.
 to *Britton, cap. 22.* and to *S. Tho-*
mas Smith de repub. Anglorum, li.
2. cap. 7. & lib. 3. cap. 3. See
Combat.

Battery commeth of the French
 (*batre. i. verberare, cudere, percun-*

tere) and signifieth in our com-
 mon lawe, a violent striking of a-
 ny man, which the Civilians call
iniuriam personalem, quia persona
infertur per verbera, cruciatu. &c.
Wesemb. parat. 7. de Iniur. & fam.
libel.

Baubels (baubella) is an old
 word, signifying Jewels. *Ro. Ho-*
veden parte poster. suorum annal.
fo. 449. b.

Bearding, aliàs, Barding of wool.
 See *Clack.*

Bearers, signifie all one with
 Maintainers, *anno 20. Edwar. 3.*
cap. 5.

Beconage (Beconagium) signi-
 fieth money paid for the main-
 tenance of Becons.

Bewpleder (pulchrè placitando)
 is made of 2. french words (*beau.*
i. decorus, formosus, pulcher) and
 (*pleder. i. disputare, & causam age-*
re) It signifieth in our common
 law, a writ vpon the statute of
Marlbridge or *Marlborow*, made
 the 52. yeare of *H. 3. ca. 11.* where-
 by it is provided, that neither in the
 circuit of Iustices, nor in Count-
 ties, Hundreds, or Courts-ba-
 ron, any fines shall be taken of
 any man for faire pleading, that
 is, for not pleading fairely or
 aptly to the purpose. Vpon
 which Statute, this writ was or-
 dained against those, that violate
 the lawe herein, See *Fitz. nat. br.*
fol. 270. A. B. C. whose definition
 is to this effect: The writ vpon
 K I the

the Statute of *Marlebridge* for not faire pleading, lyeth where the Shyreue or other Bailiffe in his court, will take fine of the party plaintiffe or defendand, for that he pleadeth not fairely, &c.

Bedell (*Bedellus*) commeth of the French (*bedeau*. i. *apparitor*) & it signifieth with us, nothing else but a messenger or seruitour belonging to a Court, as a Court-baron or Leet, *Kitchin. fol. 46.* where you may see his oath: or to the Court of the Forest, *Manwood. parte pri. of his Forest lawes. pag. 221.* in these words: A Bedell is an officer or servant of the Forest, that doth make all maner of garnishments of the Courtes of the Forest, and also all maner of Proclamations, as well within the Courts of the Forest as without: and also doth execute all the processes of the Forest. He is like to a Bailiffe errant of a Shyreue in a countie, &c.

Benefice (*Beneficium*) is generally taken for all ecclesiasticall liuings, be they dignities or other, as *anno 13. R. 2. stat. 2. ca. 2.* where benefices are divided into electiue, and benefices of gift. So is it vsed in the Canon lawe also. *Duarenus de beneficiis. lib. 2. cap. 3.*

Beneficio primo ecclesiastico habendo, is a writ directed from the King to the Chancellor, to bestow the benefice that first shall

fall in the kings gift, aboue or vnder such a valew, vpon this or that man, *Regist. orig. fol. 307. b.*

Beneuolence (*Beneuolentia*) is vsed both in the Chronicles and Statutes of this realme, for a voluntarie gratuitie giuen by the subiects to the King. Looke *Stowes annals pag. 701.* That it hath bene something aunciently accustomed, it appeareth by him and by the Statute *anno 1. Ric. 3. cap. 2.* where it is called a newe imposition: and in that respect reprehended by that tyrant in his predecessors: whether iustly or not I cannot say, nor mind to dispute. But *Stowe, pag. 791.* saith, that the inuention grewe from *Edward* the fourths dayes. You may find it also, *anno 11. H. 7. ca. 10.* to haue bene yeilded to that worthy Prince, in regard of his great expences in wars and otherwise. This is also mentioned and excepted out of the pardon, *anno 1. Ed. 6. cap. 15.* It is in other nations called (*subsidiu charitativum*) giuen somtime to Lords of the fee, by their tenents, somtime to bishops by their Clergy. *Mutheus de Afflictis, descif. 136. Cassan. de consuet. Burg. pag. 134. 136. Baldus consilio. 120. vol. 6. pag. 230.* Of this *Menochius* maketh mention, *lib. 2. centur. 2. ca. 178. & 179* shewing, when it is lawfull for a Prelate *charitativum subsidium à sibi subditis exigere, &*

quanta debeat esse ejus summa, setting downe eight just causes of this exaction.

Besale (*proavum*) is borrowed of the French (*bisayent*, i. *le pere de mon pere grand*) the father of my grandfather. In the common law it signifieth a writ, that lieth, where the great grandfather was seised in his demesne as of fee, of any lands or tenements in fee-simple, the day that hee dyed, and after his death a stranger abateth, or entreth the same day upon him, and keepeth out his heyre, &c. The forme and farder use of this writ, reade in *Fitz. nat. br. fol. 221. D. E. F. &c.*

Beastes of chase (*Fera campêtres*) be five of the Forest, chase, or parke: that is, the Bucke, the Doe, the Foxe, the Martron, and the Roe, *Manwood part. prim.* of his Forest lawes, *pag. 342 & part. 2. cap. 4. num. 2.*

Beasts of the forest (*fera sylvestres*) are the Hart, the Hind, the Hare, the Boare, and the Wolfe, *Manwood parte 2.* of his Forest lawes, *cap. 4. num. 1.*

Beasts and Fowles of Waren, are the Hare, Conie, Pefant, and the Pertridge, *Manwood parte 2. cap. 4. num. 3.*

Bestaile, commeth of the French (*bestial*, i. *pecus*) it seemeth with us to signifie all kind of cattell taken for the kings

provision, *anno 4. Ed. 3. cap. 3.* And bestiall is generally used for all kind of cattell, *anno 1. Iacobi cap. 33.*

Bidding of the Beades, was a charge or warning, that the parish Priest gave to his parishioners, at certaine especiall times, to say so many *Pater nosters*, &c. upon their beades, *anno 27. H. 8. cap. 26.*

Bigamie (*bigamia*) signifieth a double marriage. It is used in the common law, for an impediment that hindreth a man to be a Clerke, by reason that hee hath beene twice married. For upon those words of *S. Paul* to *Timothe* the first, *cap. 3. vers 2. (Oportet ergo Episcopum irreprehensibilem esse, & unius uxoris virum:)* the Canonists have founded their doctrine, that hee that hath beene twice married, may not bee a Clerke. And also him that hath married a widow, they by interpretation, take to have beene twice married. And both these they doe not onely exclude from holy orders, but also deny them all priviledges that belong unto Clerkes. But the author of the new termes of law well saith, that this law is abolished by *anno 1. Ed. 6. cap. 12.* And to that may be added the statute, *anno 18. Elizab. cap. 7.* which alloweth to all men that can read as Clerkes, though not within

orders, the benefite of Clergie in case of felonie not especially excepted by some other statute.

Blanciis deferendis, is a writ directed to a corporation, for the carying of weights, to such or such a haven, there to weigh the woolls that such a man is licenced to transport, *Reg. orig. f. 270. a.*

Bilawes, are orders made in court leets or court Barons by common assent, for the good of those that make them, farther then the publique lawe doth bind. *Coke vol. 6 fo. 63. a. Kitchin fo. 45. & 79.* These in Scotland are called (*burlaw*) or (*birlawe*) *Skene de verbo: sign. verbo Burlawe*: where hee saith thus: Lawes of *burlawe*, are made and determined, by consent of neighbours elected and chosen by common consent, in the courts called *birlawe* courts. In the which cognition is taken of complaints betwixt neighbour and neighbour: which men so chosen, are judges and arbitratours to the effect aforesaid, and are called *birlawe men*. For (*bawr*) or (*bawrsmen*) in Dutch is (*rusticus*) and so (*birlaw*) or (*burlaw*) *leges rusticorum*. Hetherto *M. Skene*.

Bilinguis, though it signifie in generality a double tounge man; yet in our common law, it is used for that Iury, that passeth betweene an English man and an alien. Whereof part must be En-

glishmen, and part straungers. *anno 28. Ed. 3. ca. 13.*

Bille (*bilka*) is diversly used among our comon lawyers. First (as *West. saith pa. 1. symb. li. 2. sect. 146.* it is al one wth an obligatiō, saving that when it is in english it is commonly called a bill, and when it is in latine an obligatiō. But I heare other good lawyers say, that a bill, though it be obligatorie, yet is without condition or forfeiture for *non payment*: and that the obligation hath both. Bille secondly, is a declaration in writing, that exprefeth either the grieve and the wrong that the complaynant hath suffered, by the party complained of, or els some fault, that the party complained of, hath committed against some law or statute of the common wealth. This bille is sometime offered up to iustices errants in the generall assises: sometime, and most of all, to the Lord Chancellor of England, especially for unconscionable wrongs done, sometime to others having jurisdiction, accordingly as the law, whereupon they are grounded, doeth direct. It containeth the fact complained of, the damages thereby suffered, and petition of proceffe against the defendant for redresse. *West. parte. 2. Simbol. titulo supplications. sect. 52.* whom you may read at large touching this

this matter.

Billaveria, is (as it were) a word of arte in our common law. For the grand enquest empaneled and sworne before the Iustices in *eyre*, &c. indorcing a bill, whereby any crime punishable in that court, is presented unto them, with these two words; doe signifie thereby, that the presentor hath furnished his presentment or denunciation with probable evidence, and worthy of farder consideration. And thereupon, the party presented by the same bill, is said to stand indicted of the crime, and so tyed to make answer unto it, either by confessing, or traversing the indictment. And if the crime touch the life of the person indicted, it is yet referred to another enquest, called the enquest of life and death: who if they finde him guilty, then hee standeth convicted of the crime, and is by the Iudge to be condemned to death. See *Ignoramus*, see *Indictment*.

Billets of gold, cometh of the french (*billet*. i. *massa auri*. anno 27. Ed. 3. stat. 2. ca. 14.

Bynny peper. anno 1. Iaco. ca. 19.

Blaske maile, is halfe English, halfe french. For in french (*maille*) signifieth a small peece of monny, which we call a halfe peny. It signifieth, in the counties of *Comberlād*, *Northumberlād*, *Westmerland*, and the Bishopricke of

Durisme, a certaine rate of monny, corne, cattell, or other consideration, paid unto some inhabiting upon or neare the borders, being men of name and power, allied with certaine, knowne to bee great robbers and spoile-takers within the said counties, to the end thereby to bee by them freed, protected, and kept in safety, from the danger of such as doe usually robbe and steale in those parts. an. 43. *Eliza. ca. 13.*

Blacke rodde, is the huiſſier belonging to the order of the Garter, so called of his blacke rodde that he carrieth in his hand. Hee is of the Kings chamber, and also huiſſier of the parlament.

Blancke, cometh of the french (*blanc*. i. *candidus*, *albus*) It signifieth a kind of coine that was coined in the parts of Frāce, by *K. H. 5.* that were subject to England: the valew whereof was eight pence, *Stowes annals. pa. 586.* These were forbidden to bee current within this realme. a. 2. *H. 6. ca. 9.* The reason why they were called blankes may be because at the time these were coyned in France, there was also a peece of gold coyned, which was called a (*Salus*) of the value of 22. shillings, from which this silver was in name distinguished by the colour.

Bloody hand. See *Backberend*.

Blomary, is one of the forges

belonging to an iron mill (which also seemeth otherwise to be termed a *Finary*.) The use whereof, if you will understand, you must know, that first there is a furnace, wherein the mine-stones are melted and cast into a raw iron, fashioned into long wedges three square, that be called sows. Then be there two forges like unto Smithes forges, but much bigger, the one whereof is called the blomary, or (as it seemeth) the finary, into the which being maintained with a charcole fire blowne with bellowes, made to goe by water, are cast the said sowes of raw iron, and melted againe, and by a workman called the finary man, are wound and wrought round, and afterward beaten by a hammer into little wedges about a yard long, which are called bloomes. Then is there another forge called the Hammer, into which these bloomes are cast, and by a workman (called the hammer man) againe chafed and made soft in a charcole fire, blowne likewise with bellowes caused to goe by the water: and after carried by the said Hammer man, and put under the great hammer also driven by the water. And so the said bloomes are drawne, fashioned, and made into such barres of iron of divers sorts and formes, as wee see

commonly sold. Of these you may reade in the statute, *anno 27. Elizab. ca 19. See Baye.*

Bloodwit (*blodwita*) is composed of 2. Saxon words (*blout. i. sanguis*) and (*wit*) for the which we haue the word (*wite*) still in the West parts of *England* signifying a charging of one with a fault, or an vpbraiding. And *Speight* in his expositions vpon *Chawser* saith, that (to wit) is as much as to blame. (To twit) in some other places of this land signifieth as much as (to hitte in the teeth) or to vpbraide. This bloodwit is a word vsed in charters of liberties anciently graunted, and signifieth an amercement for shedding of blood. So that whosoever had it giuen him in his charter, had the penaltrie due for shedding of blood graunted vnto him. *Rastall* in his exposition of words. *Skene de verbo. signif.* writeth it (*bludveit*) and saith that (*veit*) in english is *iniuria vel misericordia*: and that (*bludveit*) is an amercement or (vnlawe) as the *Scottishmen* call it, for wrong or iniurie, as bloodshed is. For he that is *insest* with (*bludveit*) hath free libertie to take all amercements of courts for effusion of blood. *Fleta* saith, *quod significat quietantiam misericordia pro effusione sanguinis. li. 1. ca. 47.*

Bockland, See *Charterland*. See

Copie

Copie hold and *Free hold*.

Bonis arrestandis, is a writ, for the which See *Arrestandus bonis*.

Bonis non amovendis, is a writ to the *Shyreeves* of *London*, &c. to charge them, that one condemned by judgement in an action, and prosecuting a writ of error, be not suffered to remove his goods, untill the error be tried. *Register. orig. fo. 131. b.*

Borom (*burgus vel burgum*) may either come from the French (*burg. i. pagus*) or from the Saxon (*borhoe. i. vadium, pignus.*) It signifieth here in England a corporate towne that is not a Citie. *anno 2. Ed. 3. ca. 3.* namely all such as send Burgesies to the Parliament: the number whereof you may see in *M. Cromptons jurisd. fol. 24.* It may probably bee thought, that it was anciently taken for those companies consisting of ten families, which were combined to be one another's pledge or borhoe: See *Bracton. li. 3. tractat. 2. ca. 10.* See *Headborow*, and *Borrowhead*, and *M. Lambard* in the duties of constables. *pa. 8.* *Lynwood* upon the provincially (*ut singula de censibus*) speake to this effect: *Aliqui interpretantur burgum esse castrum, vel locū ubi sunt crebra castra, vel dicitur burgus, ubi sunt per limites habitacula plura constituta.*) But then setting downe his owne opinion, he defineth it thus: *Burgus*

dici potest villa quacūq; alia a civitate, in qua est universitas approbata. And that he proveth out of the 11. book of *Iustinians Codex. tit. de fund. rei privata. 65. et l. 6. ejus tituli.* where *burgus* is termed *corpus*. Some derive it from the Greeke (*πυργος. i. turris*) see *M. Skene de verbo. sign. verbo. Borghe*. The late author *M. Verslegan*. in his restitution of decayed intelligences, saith, that (*burg*) or (*burnh*) whereof we say yet (*Borough*) or (*Bourrow*) metaphorically signifieth a towne, having a wall, or some kind of closure about it; also a Castell. All places that in old time had among our auncesters the name of borrough, were places one way or other fenced or fortified.

Bordlands, signifie the demesnes, that lords keepe in their hands, to the maintenance of their bord or table. *Bract. li. 4. tractat. 3. ca. 9. nu. 5.*

Borrowhead aliās *Headborow*, (*capitalis plegius*) by *M. Lambards* opiniō in his treatise of *Constables*, is made up of these two words, (*borhoe. i. pledge*) and (*head*) and signifieth a head or chiefe pledge. And in explication of this, and other Saxon words of this nature, hee maketh an excellent rehearsal of some ancient customs of England, during the reigne of the Saxons, which you may reade. This borrowhead (*in short*)

was the head or cheife man of the Decurie or Borhoe, that there he speaketh of, chosen by the rest to speake, & to doe in the name of the rest, those things that concerned them. See *Borrowholders*.

Borrowholders, aliàs *Bursholders*, be quasi borhoe calders, signifying the same officers that be called borrowheads. (*Lamb.* in the duties of *Constables*.) *Bracton* calleth them (*Borghie Aldere*) li. 3. tractat. 2. ca. 10.

Borow english, is a custumarie descent of lands or tenements, whereby in all places where this custome holdeth, lands and tenements descend to the yongest sonne: or if the owner have no issue, to his yongest brother: as in *Edmunton. Kitchin. fo. 102*. And the reason of this custome, as (*Littleton* saith, is, for that the yongest is presumed in lawe, to be least able to shift for himselfe.

Borow goods diuisable, I finde these words in the statute of *Alton. Burnel. anno 11. Ed. 1. statuto unico*. and dare not confidently set downe the true meaning of them. But as before the statute of 32. & 34. H. 8. no lands weare diuisable at the common law, but in auncient baronies: so perhaps, at the making of the foresaid statute of *Alton burnel*, it was doubtfull, whether goods were deuisable but in auncient

borowes. For it seemeth by the writ. *derationabili parte bonorum*, that aunciently the goods of a man were partible betweene his wife and children.

Bote, signifieth compensation. *Lamb.* explication of *Saxon words*. Thence cometh (*manbote*, aliàs *monbote*) that is compensation or amends for a man slaine, which is bound to another. For farder understanding whereof, it is to be seene in *K. Inas lawes*, set out by *M. Lamberd. ca. 96*. what rate was ordeined for the expiation of this offence: See *Hedgebote, Plowbote, Howsebote*, & reade *M. Skene de verbo. signif. verbo. Bote*.

Botiler of the king (*pincerna regis*) anno 43. *Ed. 3. ca. 3*. is an officer that prouideth the Kings wines: who (as *Fleta li. 2. ca. 21*. saith) may by vertue of his office out of every shippe loaden with sale wines, *unum doleum eligere in prora navis ad opus regis, & aliud in puppi, & pro qualibet pecia reddere tantum 10. solid. mercatori. Si autem plura inde habere volueris bene licebit: dum tamen precium fide dignorum indicio pro rege apponatur*.

Bowbearer, is an vnder officer of the forest (as *M. Crompton* in his *iurisdic. fo 201*. setteth down, sworn to the true performance of his office in these words: I will true man be to the master for-

ster of this forest, and to his lieutenant: and in the absence of them, I shall truly oversee, and true inquisition make, aswell of swornemen as unsworne in everie bayliwick, both in the North bayle, and South bayle of this forest, and of all manner of trespasses done, either to vert or venison, I shall truly endeavour my selfe to attach, or cause them to be attached, in the next court Attachement, there to be presented, without any concealement had to my knowledge: So helpe mee God, &c.

Braſſon (otherwise called *Henry of Braſſon*) was a famous lawyer of this land, renowned for his knowledge both in the common and civill lawes, as appeareth by his booke every where extant. Hee lived in the daies of *Henry the third*, *Stamſ prar. f. 5. b.* and as some say, Lord chiefe Iustice of *England*.

Bread of treate, and bread of coket, *anno 51. H. 3. statuto 1.* of bread and ale.

Bred, signifieth broad. This word *Braſſon* useth, *li. 3. tract. 2. ca. 15. nu. 7.* proverbially thus: to large and to bred: the meaning whereof you may there finde, word for word it is, as we now speake, two long and two broad: or two in length, or two in breadth.

Brevibus, & rotulis liberandis, is

a writ or mandat to a Shyrevee to deliver unto the new Shyrevee chosen in his roome, the county with the appertinances, together with the rols, briefes, remembrances, and all other things belonging to that office. *Register orig. fo. 295. a.*

Bribours, commeth of the french (*bribeur. i. mendicus*) It seemeth to signifie with us, one that pilfereth other mens goods, *anno 28. Ed. 2. stat. 1. canonico.*

Brief (*breve*) commeth from the french (*brief. ou bresif. i. brevis*) and in our common law signifieth a writ, whereby a man is summoned to answer to any action: or (more largely) any precept of the King in writing, issuing out of any court, whereby hee commandeth any thing to be done, for the furtherance of justice or good order. The word is used in the civill law, sometime in the singular number, and masculine gender, as *Lult Cod. de conveniendis fisci debitoribus. l. 10. tit. 2.* you have these words: *Inter chartulas confisſari brevis, quidam adſeveratur inſciens, qui nomina continerat debitoru.* Where it is used for a short note. Againe, I find a title restored by *Gothofred*, in the first booke of the *Code. de quadrimestriis brevibus. Quadrimestrii autem breves erant, qui de singulis indictionu pensionibus. quarto quoque mense soluti, conficiebantur.*

Also *Lampridius* in *Alexandro* hath it singularly thus: *notarium, qui falsum causa brevem in consilio imperatorio remisisset, &c.* And in the *Authenticks Novel. 105. ca. 2.* you have this word (*breviatores. i. brevium proscriptores*). *Breves autem, brevia, breviscula, sunt charta sive libelli breves*, as *Gothofred.* there noteth. Where hee noteth likewise out of *Zonaras* in *Carthagin*: *Cōcilio*, that this is a greek word, thus: *βρεβιον ἢ ἐπιτομή λέγεται καὶ οὐλοῦν καὶ παρὰ.* See *Skene* de verbo signif. verbo *Breve*. Of these briefes see also *Bracton l. 5. tract. 5. ca. 17. nu. 2.* *Breve quidem cum sit formatum ad similitudinem regulae juris, quia breviter & paucis verbis intentionem proferentis exponit & explanat, sicut regula juris rem quae est breviter enarrat. Non tamen ita breve esse debet, quin ratione & vim intentionis contineat, &c.*

Brigandine (*lorica*) is the french (*brigandine*) that is a coate of maile. This is used, *anno 4. & 5. Ph. & Mar. ca. 2.*

Brigbote, significat quietantiam reparationis pontium. *Fleta l. 1. ca. 47.* It is compounded of (*brig*) a bridge and (*bote*) which is a yielding of amends, or supplying a defect. See (*Bote*) and *Bruckbote*.

Britton, was a famous Lawyer, that lived in the daies of *K. Edward* the first, at whose commandement, and by whose authority

he writ a learned book of the law of this realme. The tenure whereof runneth in the Kings name, as if it had beene penned by himselfe, answerably to the Institutions, which *Iustinian* assumeth to himselfe, though composed by others. *Stawms. praeo. f. 6. & 21. S. Edward Cooke* saith, that this *Britton* writ his booke in the fiftie yeare of the said Kings raigne. *li. 4. fo. 126. a. & li. 6. fo. 67. a. M. Guin* in the preface to his reading, mentioneth, that this *Iohn Britton* was Bishop of *Hereford*.

Broke, commonly called *S. Robert Broke*, was a great Lawyer and Lord chiefe Iustice of the comon ples in Queene *Maries* time. *Cromptons* iustice of peace. *f. 22. b.* hee made an abridgement of the whole law, a booke of high account.

Broker (*brocarius*) seemeth to come from the french (*broieur. i. tritor*) that is a grinder or breaker into small pieces. Because he that is of that trade, to deale in matters of mony and marchandise betweene English men and Strangers, doth draw the bargain to particulars, and the parties to conclusion, not forgetting to grinde out something to his owne profit. These men be called broggers, *anno 10. R. 2. ca. 1.* It may not improbably be said, that this word cometh from (*bro-*
carden)

carder. i. cavillari.) because these kind of men, by their deceitfull speeches, and abusing their true trade, many times invegle others. In *Scotland* they be called (*broccarii*) and in their owne idiome, blockers or brockers, that is, mediators or intercessors in any transaction, paction, or contract: as in buying or selling, or in contracting marriage. *Skene de verbo. sign. verbo. broccarii.*

He that will know what these brokers were wont, and ought to be, let him reade the statute an *1. Iacobi. ca. 21.* These in the civill law are called (*prokenete*) as also of some (*licitatores & mediatores. ist. de proxeneticis. in Digestis.*) This kind of dealer is also of the Romanes called (*pararius*) *Seneca l. 2. de benef. ca. 22. Calim Rhodoginus, libro 6. ca. 32. & li. 3. cap. 15.*

Broderers (commeth of the French *brodeur*) & that commeth of (*bordure. i. fimbria, limbus*) the edge or hemme of a garment. And that because it is distinguished from the rest, most commonly, by some conceited or costly worke; he that worketh it, is called (*brodeur*) in French, and broderer or embroiderer with us.

Brodehalpeny, commeth of the three Saxon words (*bret, or bred*) i. a boord: and (*halve*) that is, for this or that cause (*cujus rei gratia*) as the Latinists speake, and

(*penning*) it signifieth a tolle or custome for setting up of tables or boords in a Faire or Market. From the which, they that are freed by the Kings Charter, had this word mentioned in their letters patents. Infomuch, as at this day the freedome it selfe (for shortnesse of speech) is called by the name of *brodehalpenie*.

Broggers. See *Brokers.*

Bruckbote (*Pontagium*) is compounded of two German words (*bruck. i. pons,*) and (*bote. i. compensatio.*) It signifieth with us, a tribute, contribution, or ayde toward the mending, or reedifying of Bridges; whereof many are freed by the Kings Charter. And thereupon the word is used for the very liberty or exemption from this tribute. See *Pontage* and *Brigbote*.

Bull (*bullā*) seemeth to come from the Greeke, (*βυλν*) i. *confellium* as *Polydorus Virgilius* saith, *de inventio. rerum. lib. 8. cap. 2.* It signifieth the letters, by the Canonists called Apostolicke, strengthened with a leaden scale, and containing in them the decrees or commandements of the Pope or Bishop of Rome. The word is used many times in our Statutes: as *anno 28. H. 8. cap. 16. & anno 1. & 2. Ph. & Ma. ca. 8.*

Bullion, cometh of the French (*billon*) that is, the place where gold is tried. It signifieth with

us, gold or silver in the masse or billet, *anno 9. Ed. 3. stat. 2. cap. 2.* and sometime the Kings exchange or place, whether such gold in the lump is brought to betried or exchanged, *anno 27. Ed. 3. stat. 2. cap. 14. & anno 4. H. 4. cap. 10.* See *Skene de verbo. signific. verbo Bullion.*

Burgbote, commeth of (*burg. i. castellum*) and (*bote. i. compensatio*) and signifieth a tribute or contribution toward the building or repairing of castles, or walls of defence, or toward the building of a borow or city. Fro this divers had exemption by the ancient charters of the Saxon Kings. Whereupon it is taken ordinarily for the exemption or libertie it selfe. *Rastals expos. of words. Fleta* hath these words of it: *Significat quietantiam reparationis murorum civitatis vel burgi. li. I. ca. 47.*

Burgh English. See *Borow English.*

Burgage (*burgagium*) is a tenure proper to cities and townes, whereby men of cities or borowes, hold their lands or tenements of the King, or other Lord for a certaine yearly rent. *Old Tenures.* It is a kind of socage. *Sminborn. parte 3. §. 3. nu. 6.*

Burglarie (*burglaria*) is compounded of two French words, (*bourg. i. pagus, villa*) and (*larcin, i. furtum*.) or of (*bourg & lar-*

ron) *Coke lib. 4. fol. 39. b.* It is according to the acceptance of our common law, thus defined: Burglarie is a felonious entring into another mans dwelling house, wherein some person is, or into a Church in the night time, to the end to commit some felonie therein: as to kill some man, or to steale somewhat thence, or to doe some other felonious act there, albeit hee execute not the same. If the intent, or fact of this offendour, be to steale, this is like robbrie, if to murther, it differeth not much from murther, and so of other felonies, *West. parte 2. symbol. titulo. Indictments Sect. 56.* Burglarie in the naturall signification of the word, is nothing, but the robbing of a house: but as it is (*vox artis*) our common Lawyers restraine it to robbing a house by night, or breaking in with an intent to rob, or to doe some other felonie. The like offence committed by day, they call house-robbing, by a peculiar name. How many waies burglarie may bee committed, see *Cromptons Justice of peace. fol. 28. b. & fol. 29. 30.*

Butlerage of wines, signifieth that imposition of sale wine brought into the land, which the Kings Butler, by vertue of his office, may take of every ship, *anno 1. H. 8. cap. 5.* For the

the which see more in *Botylar*.

C

C *Ablis* (*cablicia*) among the writers of the Forest lawes, signifieth brush wood, *Manwood parte pag. 84. Cromptons Iurisd. fol. 165.*

Calamus, is a cane, reed, or quill, the divers kinds whereof, you have set downe in *Gerards Herball. lib. 1. cap. 24.* This is comprized among merchandize and drugs to bee garbled, in the statute *anno 1. Iacobi, cap. 19.*

Calendrin of Worsseds. anno 5. H. 8. cap. 4. & anno 35. ejusdem. cap. 5.

Cantred, is as much in *Wales*, as an hundred in *England*. For *Cantre* in the British tongue signifieth *centum*. This word is used *anno 28. H 8. cap. 3.*

Cape, is a writ judiciall touching plee of land or tenements, so termed (as most writs be) of that word in it selfe, which carieth the especiallest intention or end thereof. And this writ is divided in (*Cape magnum*, & *Cape parvum*;) both which (as is before said in Attachment) take hold of things immoveable, and seeme to differ betweene themselves in these points. First, because (*cape magnum*) or the (*grand Cape*) lyeth before ap-

pearance, and (*Cape parvum*) afterward. Secondly, the (*Cape magnum*) summoneth the tenent to answer to the default, and over to the demandant: (*Cape parvum*) summoneth the tenent to answer to the default onely: and therefore is called (*Cape parvum*) or in French english (*petit Cape.*) *Old. nat. br. fol. 161. 162.* Yet *Ingham* saith, that it is called (*petit Cape*) not because it is of small force, but that it consisteth of few words. (*Cape magnum*) in the *old. nat. br.* is thus defined. This writ is a judiciall, and lyeth where a man hath brought a (*Præcipe quod reddat*) of a thing that toucheth plee of land, and the tenent make default at the day to him given in the writ originall: then this writ shall goe for the King, to take the land into the Kings hands: and if hee come not at the day given him by the (*grand Cape*) he hath lost his land, &c. A president and forme of this writ you may see in the Register judiciall, *fol. 1. b.* It seemeth after a sort to containe in it the effect (*missio nis in possessionē ex primo & secundo decreto*) among the Civilians. For as the first decree seisseth the thing, and the second giveth it from him, that the second time defaulteth in his appearance: so this (*Cape*) both seisseth the land, and also assigneth to the partie a farther

farther day of appearance, at which if hee come not in, the land is forfeited. Yet is there difference betweene these two courses of the civill and common law: first, for that (*missio in possessionem*) toucheth both mooveable and immoveable goods, whereas the (*Cape*) is extended onely to immoveable: secondly, that the partie being satisfied of his demaund, the *remanet* is restored to him that defaulted: but by the (*Cape*) all is seised without restitution: thirdly, (*missio in possess*) is to the use of the party agent, the (*Cape*) is to the use of the King. Of this writ, and the explication of the true force and effect thereof, reade *Bracton lib. 5. tract. 3. cap. 1. num. 4. 5. & 6.* See *Cape ad valentiam*.

Cape parvam, in the *Old. na. br. fol. 162.* is thus defined: This writ lyeth, in case where the tenant is summoned in plee of land, and commeth at the summons, and his appearance is of record, and after hee maketh default at the day that is given to him: then shall goe this writ for the King, &c. Of this likewise you have the forme in the Register judicall, *fol. 2. a.* Why it is called *Cape parvum*, see in *Cape magnum*. Of both these writs, reade *Fleta lib. 6. cap. 44. §. Magnum & seqq.*

Cape ad valentiam, is a species of *Cape magnum*, so called of the end whereunto it tendeth. In the *Old nat. br. fo. 161. 162.* it is thus defined or described: This writ lyeth, where any impleaded of certaine lands, and I vouch to warrant another, against whom the summons *ad warrantizandum*, hath been awarded, and the Shyreewe commeth not at the day given: then if the demandant recover against mee, I shall have this writ against the vouchee, and shall recover so much in value of the land of the vowchee, if hee have so much: and if hee have not so much, then I shall have execution of such lands and tenements, as descend unto him in fee-simple: or if hee purchase afterward, I shall have against him a resummons: and if hee can nothing say, I shall recover the value. And note yee, that this writ lyeth before apparence. Thus farre goeth the booke. Of these, and the divers uses of them, see the Table of the Register judicall, *verbo. Cape.*

Capias, is a writ of two sorts, one before judgement called (*Capias ad respondendum*) in an action personall, if the Shyreewe upon the first writ of distresse retorne (*nihil habet in balivua nostra*:) and the other is a writ of execution after judgement, being also of

of divers kinds (*viz. Capias ad satisfaciendum, Capias pro fine, Capias utlagatam, Capias utlagatum, & inquiras de bonis & catallis*).

Capias ad satisfaciendum, is a writ of execution after judgement, lying where a man recovereth in an action personall, as debt, or damages, or detinue in the Kings court: and he against whom the debt is recovered, and hath no lands nor tenements, nor sufficient goods, whereof the debt may be levied. For in this case, hee that recovereth, shall have this writ to the Sheriffe, commanding him that hee take the body of him, against whom the debt is recovered: and hee shall be put in prison, untill satisfaction be made unto him that recovered.

Capias pro fine, is where one being by judgement fined unto the King, upon some offence committed against a statute, doth not discharge it according to the judgement. For by this is his body taken, and committed to prison, untill hee content the King for his fine, *Coke lib. 3. fo. 12. a.*

Capias utlagatum, is a word of execution, or after judgement, which lyeth against him that is outlawed upon any suit: by the which the Sheriffe upon the receipt thereof, apprehendeth the party outlawed, for not appear-

ring upon the (*exegend*) and keepeth him in safe custodie untill the day of returne assigned in the writ: and then presenteth him unto the court, there farther to be ordered for his contempt.

Capias utlagatum, & inquiras de bonis & catallis, is a writ all one with the former, but that it giveth a farther power to the Shyreve, over and beside the apprehension of the boody, to inquire of his goods, and cattels. The forme of all these writs see in the *old. nat. br. fo. 154.* and see the Termes of law, *verbo Proces*. Lastly, you may find great varietie of this kind, in the table of the Register judiciall, *verbo Capias*.

Capias in Withernamium de averiis, is a writ lying for cattell in *Withernam*. Register orig. f. 82. & 83. see *Withernam*.

Capias in Withernamium de hermine, is a writ that lyeth for a servant in *Withernam*. Register orig. f. 79. & 80. see *Withernam*.

Capias conductos ad proficiscendum, is a writ that lieth for the taking up of such, as having received prest money to serve the King, flinke away, and come not in at their time assigned, Register orig. fo. 191.

Captaine, aliàs capitayne (captaneus) commeth of the French (*capitaine*) and signifieth with us, him that leadeth, or hath charge of

of a companie of Souldiers : and is either generall , as he that hath the governance of the whole host : or speciall , as he that leadeth one only band. The word (*capitanei*) in other nations signifieth more generally those , that are in latine called (*principes*) or (*proceres*) because , as *Hottoman* saith in *verbis feudalis* : *tanquā caput reliquo corpori* sic hii reliquis *civibus præsunt*. He divideth them into two sorts : and to use his words , *alii sunt capetanei regni : quo verbo Duces, Comites, Marchiones intelliguntur*. l. 1. feud. tit. 1. §. 1. & ti. 7. *Alii impropiè, qui urbium præfecti sunt, quibus plebs ab aliquo superiorū gubernanda cōmittitur : qui & vassallos regit , & majores appellantur*. l. 1. feud. tit. 1. §. 1. & ti. 7. & tit. 17. So we have captaines of castles here in *England*, and other places , as of the Isles of *Gearsay* and *Gearnsey*, of the Isle of *Weight*, &c.

Capite, is a tenure, which holdeth immediately of the King, as of his crowne, be it by knights service or socage: *Broke tit. Tenures. 46. 94. Dyer, fo. 123. nu 38. & fo. 363. nu. 18.* and not as of any Honour, castle, or maner : and therefore it is otherwise called a tenure , that holdeth meerly of the King , because as the crowne is a corporation , and seignury in grosse (as the common lawyers terme it) so the King that

possesseth the crowne, is in account of law , perpetually King , and never in his minoritie , nor never dieth : no more then (*populus*) doth , whose authority hee beareth. See *Fitzh. nat. br. f. 5. F.* Note by the way, that a man may hold of the King, and not (*in Capite*) that is , not immediately of the crowne in grosse , but by meanes of some Honour, castle, or maner belonging to the Crowne, whereof I hold my land. Whereof *Kitchin* saith well , that a man may hold of the King by Knight service, and yet not in *capite*, because hee holdeth happily of some honour by Knights service , which is in the Kings hands (as by descent from his ancestors) and not immediately of the King, as of his crowne, *fo. 129.* with whom agreeth *Fitzh. nat. br. f. 5. K.* whose words are to this effect : So that it plainly appeareth , that lands which be held of the King , as of an honour, castle, or maner, are not held in *capite* of the King : because that a writ of right, in that case , shall be directed to the bayliffe of the honour, castle, or maner, &c. but when the lands be held of the King , as of his crowne , then they be not held of honour, castle, or maner, but meerly of the King, as King, and of the Kings crowne, as of a seignury of it selfe in grosse, and the chiefe above all other seignuries,

ries, &c. And this tenure in *capite* is otherwise called tenure holding of the person of the King. *Dyer fo. 44. nu. 37.* Author of the new termes. *ver. Tenure in capite. Broke titulo. Tenures. nu. 65. 99.* And yet *M. Kitchin fo. 208.* saith, that a man may hold of the person of the King, and not in *capite*. His example is this: If the King purchase a manor that *I. S.* holdeth, the tenent shall hold as hee held before, and shall not render livery or *primeir seisin*, nor hold in *capite*: And if the King grant that manor to *W. N.* in fee, excepting the services of *I. S.* then *I. S.* holdeth of the King, as of the person of the King, and yet holdeth not in *capite*, but as hee held before. So that by this Booke, tenure holding of the person of the King, and tenure in *capite*, are two divers tenures: To take away this difficulty, I thinke *M. Kitchin* is in that place to be taken, as if hee said, not in *capite* by Knights service, but by socage, following the usuall speech: because most commonly where we talke of tenure in *capite*, wee meane tenure by Knights service.

Carno, *Cromptons jurisd. fol. 191.* is an imunity.

Carke, seemeth to be a quantitie of Wooll, whereof thirtie make a Sarpler, *anno 27. H. 6. ca. 2.* See *Sarpler*.

Carrack, alias *Carrick*, seemeth to bee a Ship of burthen, so called of this Italian (*carrico*) or (*carco*) a burthen or charge, or of the Spanish (*cargo*) you have this word, *anno 2. R. 2. ca. 4.* & *anno 1. Iaco. ca. 33.*

Carromay seeds, alias *Carromay seeds*, (*semen cari vel carci*) is a Seed springing of the herbe so called, of whose operation you may reade in *Gerards Herball, li. 2. ca. 396.* It is reckoned among the Merchandise, that ought to be garbled, *anno 1. Iaco. ca. 19.*

Carne of land (*carucata terra*) commeth of the French (*charne. i. aratrum*) and with us is a certaine quantitie of land, by the which the Subjects have sometime been taxed: whereupon the tribute so levied, is called (*Carvage Carvagium*) *Bracton li. 2. ca. 16. nu. 8.* It is all one with that, which the same author, *lib. 2. cap. 17.* calleth (*carucatam terra*) For *Littleton ca. Tenure in socage*, saith, that (*hec soca soca, idem est quod caruca*) *sc.* one soke, or one plow land. Yet one place I find in *Stowes annals*, that maketh mee doubt, *pag. 271.* where hee hath these words: The sametime King *Henry* tooke carvage, that is to say, two merks of silver of every Knights fee, toward the mariage of his sister *Izabell* to the Emperor: where carvage cannot be taken for a Plow land, except

there were some other farder di-
 vision, whereby to raise of every
 plow land so much: and so con-
 sequently of every Knights fee:
 that is, of every 680. acres, two
 merkes of silver. *Rastall* in his
Exposition of words saith, that
 caruage is to be quite, if the Lord
 the King shall take all the land by
 carues: that is, a priviledge,
 whereby a man is exempted from
 caruage. *Skene de verb. signif. ver.*
Carnicata terra, deriveth it from
 the French (*charon*. i. a plough)
 and saith, that it containes as
 great a portion of land, as may
 be tilled and laboured in a yeare
 and day with one plough: which
 also is called (*hilda*) or (*hida ter-
 ra*) a word used in the old Bri-
 taine lawes. *M. Lamberd* among
 his precedents, in the end of his
Eirenarcha, translateth (*caruatum
 terra*) a plough land.

Carnage (*caruagium*) see
Carne.

Cassia Fistula, is a tree that bea-
 reth certaine blacke, round, and
 long cods, wherein is contained
 a pulpe, soft & pleasantly sweet,
 serving for many uses in Physick.
 This tree with her vertues you
 may find described in *Gerards
 Herball*, lib. 3. cap. 77. The fruite
 is mentioned in the statute, anno
 1. *Iacob*. cap. 19. among drugges
 and spices, that bee to bee gar-
 bled.

Cassia lignea, is a sweet wood

not vnlike to Cynamon, and
 sometime vsed in steede of Cy-
 namon. Whereof you may read
 in *Gerards Herball*, lib. 1. cap. 141.
 This is called *Cassia lignum*, in the
 Statute anno 1. *Iacob*. cap. 19. and
 is comprised among merchandize
 that are to be garbled.

Castellain (*castellanus*) is a kee-
 per or a Captaine, sometime cal-
 led a Constable of a castell, *Bra-
 tton* lib. 5. tractat. 2. cap. 16. &
 lib. 2. cap. 32. num. 2. In like ma-
 ner is it used, anno 3. *Ed. 1*. cap. 7.
 In the bookes (*de feudis*) you
 shall find (*gustaldus*) to bee al-
 most of the same signification,
 but something more large: be-
 cause it is also extended to those
 that have the custody of the Kings
 mansion houses, called of the
Lumbards (*curtes*) in England
 (Courts) though they bee not
 places of defense or strength.
M. Mismood, part. 1. of his Fo-
 rest lawes, pag. 113. saith, that
 there is an officer of the Forest
 called *Castellanus*.

Castelward (*castelgardum*, vel
wardum castri) is an imposition
 laid upon such of the Kings sub-
 jects, as dwell within a certaine
 compasse of any castell, toward
 the maintenance of such, as doe
 watch and ward the castell. *Mig-
 na charta*, cap. 20. & anno 32.
H. 8. cap. 48. It is used sometime,
 for the very circuit it selfe, which
 is inhabited by such as are sub-
 ject

ject to this service, as in *Stowes annals*, pag. 632.

Casu consimili, is a writ of entrie, granted where the tenent by courtesie, or tenent for terme of life, or for the life of another, doth alien in fee, or in taile, or for terme of anothers life. And it hath the name of this, for that the Clerkes of the Chauncerie did, by their common consent, frame it the likenesse of the writ called (*In casu proviso*) according to their authoritie given them by the Statute, *Westm. 2. cap. 24.* which, as often as there chanceth any new case in Chauncerie, something like to a former case, and yet not especially fitted by any writ, licenseth them to lay their heads together, and to frame a new forme answerable to the new case, and as like some former case as they may. And this writ is granted to him in the reversion, against the party to whom the said tenent so alienateth to his prejudice, and in the life time of the said tenent. The forme and effect whereof, reade more at large in *Fitzh. nat. br. fol. 206.*

Casu proviso, is a writ of entry, given by the Statute of *Glocester, cap. 7.* in case where a tenent in dower alieneth in fee or for terme of life, or in taile,

and lyeth for him in reversion against the alience. Whereof reade *Fitz. nat. br.* more at large, *fol. 205.*

Catalls (*catalla*) aliàs *chatels*, commeth of the *Normans*. For in the 87 chapter of the grand customary you shall find, that all moveable goods with them, are called chatels: the contrary whereof is (*fief*) *ibid.* which we do call fee. But as it is used in our common law, it comprehendeth all goods moveable & immoveable, but such as are in the nature of free-hold, or parcell thereof, as may be gathered out of *Stawns. prero. ca. 16.* and *an. Eliz. 1. ca. 2.* Howbeit, *Kitchin* in the chapter *catalla. fo. 32.* saith, that ready money is not accounted any goods or chatels, nor hawkes, nor hounds. The reason why hawkes and hounds be not, hee giveth, because they be (*fera natura*) why money is not, though hee set not downe the cause: yet it may be gathered to be, for that money of it selfe, is not of worth, but by consent of men, for their easier trafficke, or permutation of things necessary for common life, it is reckoned a thing rather consisting in imagination, then in deed. *Catalls* be either personall or reall. Personall may be so called in two respects: one, because they be-

long immediately to the person of a man, as a bow, horse, &c. the other, for that being any way withheld injuriously from us, wee have no meanes to recover them, but by personall action. *Chatels* reall be such, as either appertaine not immediatly to the person, but to some other thing, by way of dependencie: as a boxe with charters of land, the body of a ward, apples upon a tree, or a tree it selfe growing on the ground. *Cromptons Justice of peace. fo. 33. B.* or else such as are necessary, issuing out of some immoveable thing to a person: as a lease or rent for tearme of yeares. Also to hold at will, is a chatell reall. *New tearmes, verbo Chatell.* The civilians comprehend these things, as also lands of what kind or hold soever, under *bona; bona autem dividuntur in mobilia & immobilia: mobilia verò in ea quæ se movent vel ab aliis moventur. v. legem. 49. & l. 208. x. de verb. significa. & interpretes ibidem. Bract. also c. 3. l. 3. nu. 3. & 4.* seemeth to be of the same judgement.

Catallis captis nomine districti-onis, is a writ which lyeth within a Borow, or within a house, for rent going out of the same, and warranteth a man to take the dores, windowes, or gates, by way of distresse, for the rent. *Old nat. br. fol. 66.*

Catallis reddendis, is a writ, which lyeth where goods being delivered to any man to keepe untill a certaine day, and be not upon demand delivered at the day. And it may be otherwise called a writ of detinew. See more of it in the *Register orig. fo. 139.* and in the *Old nat. br. fo. 63.* This is answerable to *actio depositi*, in the civill law.

Catchepolle, though it now be used as a word of contempt, yet in ancient times, it seemeth to have beene used without reproch, for such as wee now call Sergeants of the Mace, or any other that use to arrest men upon any cause, *anno 25. Ed. 3. stat. 4. ca. 2.*

Cathedrall. See Church.

Casu matrimonii prelocuti, is a writ which lyeth in case where a woman giveth lands to a man in fee simple, to the intent hee shall marry her, and refuseth so to doe in reasonable time, being required thereunto by the woman. The forme, and farther use hereof, learne in the *Register orig. fol. 233.* and in *Fitzh. nat. br. fo. 205.*

Causam nobis significes, is a writ which lieth to a Mayor of a towne or city, &c. that formerly by the Kings writ being commanded to give seisin unto the Kings grantee of any land or tenements, doth delay so to doe

doe, willing him to shew cause, why hee so delayeth the performance of his charge. *Coke l. 4. casu communalit des Sadlers. fo. 55. b.*

Cautione admittenda, is a writ that lyeth against the Bishop, holding an excommunicate person in prison for his contempt, notwithstanding that hee offereth sufficient caution or assurance to obey the commandments and orders of holy Church from thence forth: The forme and farther effect whereof, take out of the *Regist. orig. pa. 66.* and *Fitzh. nat. br. fo. 63.*

Century (centuria) See *Hundred*. *Cepi corpus*, is a returne made by the Sheriffe, that upō an (exigend) hee hath taken the bodie of the party, *Fitzh. nat. br. fo. 26.*

Certiorari, is a writ issuing out the Chauncerie, to an inferior Court, to call up the records of a cause therein depending, that conscionable Iustice therein may be ministred, upon complaint made by bill, that the partie which seeketh the said writ, hath received hard dealing in the said court. *Termes of the law.* See the divers formes and uses of this, in *Fitzh. nat. br. fol. 242.* as also the Register, both originall and judicall in the tables, *verbo. Certiorari*. *Crompton* in his *Iustice of peace. f. 117.* saith, that this writ is either returnable in the Kings Bench, and then hath these

words (*nobis mittatis*): or in the Chauncerie, and then hath (*in cancellaria nostra*) or in the common bench, and then hath (*Iustitiariis nostris de banco.*) The word (*certiorare*) is used divers times in the *digest* of the civill law: but our later *Criticke*s thinke it so barbarous, that they suspect it rather to be foisted in by *Tribonian*, then to be originally used by those men, of whose workes the said *digest* is compiled. *Prataus in suo lexico.*

Certificat (certificatorium) is used for a writing made in any Court, to give notice to another Court of any thing done therein. As for example, a certificat of the cause of attainte, is a transcript made briefly and in few words, by the Clerke of the Crowne, Clerke of the Peace, or Clerke of Assise, to the court of the Kings Bench, containing the tenure and effect of every endictment, outlawrie, or conviction, and Clerke attained, made or pronounced in any other Court, *an. 34. H. 8. c. 14.* Of this see more in *Certificat d'evesque. Broke fol. 119.*

Certification of assise of novel disseisin, &c. (*Certificatio assise nove disseisine, &c.*) is a writ granted for the re-examining or review of a matter passed by assise before any Iustices, and is called (*certificatione nove disseisine*) *Old nat. br. fo. 181.* Of this see also the

Register original. fo. 200. and the new book of entries, *verb. Certificat of assise.* This word hath use, where a man appearing by his Bailiffe to an assise brought by another, hath lost the day: and having something more to plead for himselfe, as a deed of release, &c. which the Bailiffe did not, or might not plead for him, desireth a farther examination of the cause, either before the same Iustices, or others: and obtaineth Letters patents unto them to that effect. (The forme of these Letters patents, you may see in *Fitzh. nat. br. fo. 181.*) and that done, bringeth a writ to the Sheriffe, to call both the party for whom the assise passed, and the Iurie that was empaneled upon the same, before the said Iustices at a certaine day and place. And it is called a certificate, because in it there is mention made to the Sheriffe, that upon the parties complaint of the defective examination, or doubts yet remaining upon the assise passed, the King hath directed his Letters patents to the Iustices, for the better certifying of themselves, whether all points of the said assise were duly examined, yea or not. See farther *Old. nat. br.* and *Fitzh. ubi supra.* Of this also you may reade *Bracton li. 4. ca. 19. nu. 4. in fine.* & 5, 6. where hee discusseth

the reason of this point very learnedly; and lastly, *Horn* in his *Mirror of Iustices, li. 3. ca. finali. S. en eyde des memoires, &c.*

Certificando de recognitione Stapula, is a writ directed to the Maior of the staple, &c. commanding him to certifie the Chaunceler of a statute of the staple, taken before him betweene such and such, in case where the partie himselfe detaineth it, and refuseth to bring it in, *Regist. orig. fo. 152. b.* In like manner may be said of (*certificando de statuto mercatorio*) *eodem. fo. 148.* and (*de certificando in cancellarium de inquisitione, de idemptitate nominis*) *fo. 195.* and (*certificando quando recognitio*,) &c. and (*certificando quid actum est de brevi super statutum mercatorium.*) *fo. 151.* and *certificando si loquela Warantia. fo. 13.*

Cessor, is hee that cesseth or neglecteth so long to performe a dutie belonging unto him, as that by his cesse or cessing hee incurreth the danger of Law, and hath, or may have the writ (*cessavit*) brought against him. *Old. nat. br. fo. 136.* And note, that where it is said in divers places (the tenent cesseth) without any more words, such phrase is so to be understood, as if it were said: the tenent cesseth to doe that which hee ought, or is bound to doe by his land or tenement.

Cessavit, is a writ, that lyeth in divers cases, as appeareth by *Fitzh. nat. br. fo. 208.* vpon this generall ground, that he against whom it is brought, hath for 2. yeares foreflowne to performe such service, or to pay such rent, as he is tied vnto by his tenure, and hath not vpon his land or his tenement, sufficient goods or cattells to bee distreined. Consult more at large with *Fitz.* vpon this *ubi supra. with Fleta. li. 5. ca. 34. §. visafant*, and with the *Termes of lawe.* See *Cessavit de cantaria. Register orig. fo. 238. Cessavit de feodi firma. eodem fo. 237. Cessavit per biennium. eodem. folio etiam eodem.* See the new booke of entries. *verbo Cessavit.*

Cestui qui vie, is in true French (*cestui a vie de qui*) i. hee for whose life any land or tenement is graunted. *Perkins graunts. 97.*

Cestui qui vse (*ille cuius vsui vel ad cuius usum*) is broken french, and thus may be bettered: (*Cestui al vse de qui*) It is an ordinary speech among our common lawyers, signifying him, to whose vse any other man is infeofed in any lands or tenements. See the new booke of entries. *verbo vses.* and in *Raplevin. fo. 508. colum. 3. & verbo Trespas. fo. 606. & fo. 123. a. b. colum. 3. nu. 7.*

Chafe waxe, is an officer in chauncery, that fitteth the waxe for the sealing of the writs,

and such other instruments as are there made to bee sent out. This officer is borrowed from the French. For there (*calefactores cera sunt, qui regis literis in Cancellariaceram imprimunt. Corasius.*

Chase (*chacea*) commeth of the French (*chasser. i. sectari belluas, apros, cervos*) It signifieth two things in the common lawe. First, as much as (*actus*) in the civill lawe, that is a driving of catell to or from any place: as to chase a distresse to a fortlet, *Old nat. br. fo. 45.* Secondly, it is vsed for a receite for deere and wilde beasts, of a middle nature betweene a forest, and a parke: being commonly lesse then a forest, and not endued with so many liberties, as the courtes of *attachement*, *Swaine mote*, and *Iustice seate*: and yet of a larger compas, and stored with greater diuersity both of keepers and wilde beasts or game, then a park. And *Crompton* in his booke of *Jurisdiction. fo. 148.* saith, that a forest cannot bee in the hands of a subiect, but it forthwith looseth the name, and becommeth a chase, and yet *fo. 197.* hee saith, that a subiect may bee lord and owner of a forest, which though it seeme a contrariety, yet bee both his sayings, in some sort, true. For the King may give or alienate a forest to a subiect: yet so,

as when it is once in the subject, it leeseeth the true propertie of a Forest: because that the Courts, called the Iustice seat, the Swainmote, and Attachment, foorthwith doe vanish: none being able to make a Lord chiefe Iustice in Eyre of the Forest, but the King: as M. *Manwood* well sheweth, *parte 2.* of his *Forest Lawes*, *cap. 3. & 4.* And yet it may be granted in so large a manner, that there may be Attachment and Swainmote, and a Court equivalent to a Iustice seat, as appeareth by him in the same chapter, *num. 3.* So that a Chase differeth from a Forest in this, because it may bee in the hands of a subject, which a Forest in his proper & true nature cannot: and from a Parke, in that that it is not inclosed, and hath not onely a larger compasse, and more store of game, but of Keepers also and overseers. See *Forest*.

Challenge (*calumnia*) commeth of the French (*challenger*, i. *sibi asserere*) and is vsed in the common lawe for an exception taken either against persons or things: persons, as in assise to the Iurors, or any one or more of them: or in a case of felonie by the prisoner at the barre. *Smith. de rep. Anglor. lib. 2. cap. 12. Britton. ca. 52. Bratton. lib. 2. tract. 2. cap. 22.* Against things, as a declaration, *Old nat. br. fol. 76.* Challenge

made to the Iurors, is either made to the array, or to the polles. Challenge to the array is, when the whole number is excepted against, as partially empaneled: challenge to or by the polle, when some one, or more are excepted against, as not indifferent. *Termes of the law.* Challenge to the Iurours, is also divided into Challenge principall, and Challenge *per cause*. i. vpon cause or reason. Challenge principall (otherwise by *Stamf. pl. cor. fol. 157. & 158.* called (peremptorie) is that, which the lawe alloweth without cause alledged or farther examination.

Lamberd. Eirenar. lib. 4. cap. 14. as a prisoner at the barre, arraigned vpon felonie, may peremptorily challenge to the number of 20. one after another, of the Iurie empaneled vpon him, alledging no cause, but his owne dislike: and they shall bee still put off, and new taken in their places. But in case of high treason no Challenge peremptorie is allowed, *an. 33. H. 8. cap. 23. Forrescue* saith, that a prisoner in this case may challenge, 35. men, *c. 27.* but that law was abridged by *anno 25. H. 8. cap. 3.* I cannot here omit to note some difference, that (in mine opinion) I obserue betweene Challenge principall, and Challenge peremptorie, finding peremptorie

to be used onely in matters criminall, and barely without cause alledged more then the prisoners owne phantasie, *Scamf. pl. cor. fol. 124.* but principall in civill actions for the most part, and with naming of some such cause of exception, as being found true, the law alloweth without farder scanning. For example: if either partie say, that one of the Jurors is the sonne, brother, cousin, or tenent to the other, or espoused his daughter, this is exception good and strong enough (if it bee true) without farder examination of the parties credit, And how farre this challenge upon kinred reacheth, you have a notable example, in *Plowden, casu Vernon*, against *Manners*, fol. 425. Also in the plee of the death of a man, and in every action reall, as also every action personall, where the debt or dammages amount to 40. merks, it is a good challenge to any man, that he cannot dispend 40. shillings by the yeare of Free-hold, *anno. 11. H. 7. cap. 21.* and Termes of the law, *verbo Challenge*. The ground of this challenge you may see farder in *Fleta, lib. 4. cap. 8.* Challenge upon reason or cause is, when the partie doth alledge some such exception against one or more of the Jurors, as is not forthwith sufficient upon acknowledgement

of the truth thereof, but rather arbitrable and considerable by the rest of the Jurors: as for example: if the sonne of the Juror have married or espoused the daughter of the adverse partie. Termes of the law, *ubi supra.* This challenge *per cause*, seemeth to be tearmed by *Kitchin, challenge for favour, fol. 92.* or rather Challenge for favour is said there to be one species of challenge *per cause*: where you may read what challenges bee commonly accounted principall, and what not. See the new booke of Entries, *verbo, Challenge*, and the *old. nat. br. fol. 158 & 159.* That this word (*challenge*) is long sithence latined by the word (*calumnia*) appeareth by *Bracton, lib. 3. tract. 2. cap. 18. & li. 4. tract. 3. cap. 6. & lib. 5. cap. 6.* But I doubt *Priscian* will never forgive him that first strooke this blow at him. Of *challenge* you may farder read *Fleta, lib. 1. cap. 32. §. Ad quem diem & seqq.*

Chamberdekins, are Irish beggers, *anno 1. H. 5. cap. 8.*

Chamberer, is used for a Chamber-maid, *anno 33. H. 8. cap. 21.*

Chamberlaine (*camerarius vel camberlingus*) commeth of the French (*chambellan*) i. *cubicularius, vel praeſectus cubiculi.*) It is diversly used in our Chronicles, Lawes, and Statutes: as Lord

great Chamberlaine of England, Lord Chamberlaine of the Kings house, the Kings Chamberlaine, anno 13. Ed. 1. cap. 41. anno 17. R. 2. cap. 6. to whose office it especially appertaineth to looke to the Kings chambers and wardrobe, and to governe the under ministers belonging unto the same. *Fleta lib. 2. cap. 6. & 7.* Chamberlaine of any of the Kings courts, anno 7. Ed. 6. cap. 1. Chamberlaine of the Exchequer, anno 51. H. 3. stat. 5. & anno 10. Ed. 3. cap. 11. & anno 14. ejusdem. cap. 14. & anno 26. H. 8. cap. 2. Chamberlaine of North Wales, *Stow. pag. 641.* Chamberlaine of Ghester. *Cromptons jurisd. fol. 7.* This Officer is commonly the receiver of all rents and revenues belonging to that person or citie, whereunto hee is Chamberlaine. *v. Fletam lib. 2. cap. 70. §. Si autem.* The Latine word seemeth to expresse the function of this Officer. For (*camerarius dicitur à camera. i. testudine sive fornice:*) quia custodit pecunias quae in cameris praecipue reservantur. *Omyphrus de interpret. vocum ecclesiasticarum.* It seemeth to be borrowed from the Feudists, who define the word (*camera*) thus: *Camera est locus in quem thesaurus recolligitur, vel constane in quo pecunia reservatur.* *Zafius de feudis. part. 4. num. 7.* and *Peregrinus, de jure fisci. lib. 6. tit. 3.* saith, that

camerarius vel camberlingus (quæ quaestorem antiqui appellabant) in rebus fisci primum locum tenet, quia thesaurarius & custos est publicae pecuniae. Sanè officium hoc primipilatus fuisse nonnulli senserunt. There be two officers of this name in the Kings Exchequer, who were wont to keepe a controlement of the pels of receipt and exitus, and kept certaine keyes of the treasure cofers, which is not now in use. They keepe the keyes of the Treasurie, where the leagues of the Kings predecessors, and divers ancient bookes doe remaine. There is mention of this officer, in the Statute, anno 34. & 35. H. 8. cap. 16. There bee also Vnder-chamberlaines of the Exchequer, which see in *Vnder-chamberlaine.*

Champartie (campipartita) aliàs champertie, seemeth to come from the french (*champert. i. veltigal*) and signifieth, in our common law, a maintenance of any man in his suit depending, upon condition to have part of the thing (be it lands or goods) when it is recovered. *Fitzb. nat. br. fol. 171.* and *champertours* be they, that move ples or suites, or cause to be moved, either by their owne procurement, or by other; and pursue at their proper costs, for to have part of the land in variance, or part of the gaines. anno 33. Ed. 1. stat. 2. in
fine.

fine. Whereunto adde the third statute made the same year. This seemeth to have beene an ancient fault in our Realme. For notwithstanding these former statutes, and a forme of writ framed unto them, yet *anno 4. Ed. 3. ca. 11.* it was againe enacted, that whereas the former statute provided redresse for this in the Kings Bench onely (which in those daies followed the Court,) from thence forth it should be lawfull for Iustices of the Common plees likewise, and Iustices of Assises in their circuits, to inquire, heare, and determine this and such like cases, as well at the suit of the King, as of the party. How far this writ extendeth, and the divers formes thereof, applied to severall cases, see *Fitzh. nat. br. fol. 171.* and the *Register orig. fol. 183.* and the new booke of entries, *verbo. Champertie.* Every *champertie* imployeth maintenance, *Cromptons juris d. fo. 39.* See also his Iustice of Peace, *fo. 155. b. & c.* These with the Romans were called *redemptores litium, qui sc. quotidianas lites mercantur, aut qui partem litis paciscuntur l. si remunerandi. S. Maurus. w. Mandati. l. si contra. & l. per diversas. Co. eodem. 13.*

Champion, (campio) is thus defined by *Hottoman, in verbis feudilibus. Campio est certator pro alio datus in duello: a campo dictus, qui*

circus erat decertantibus definitus. In our common law, it is taken no lesse for him that trieth the combat in his owne case, then for him that fighteth in the place or quarrell of another, *Bracton li. 3. tract. 3. ca. 21. nu. 24.* who also seemeth to use this word for such, as hold by Sergeanty, or some service of another: as *cāpiones faciunt homagium domino (uo. li. 2. ca. 35.* Of this reade more in *Battell and Combat. 30.*

Chanceler, (cancellarius) cometh of the french (*chancelier*) *Vincentius Lupanus de magistratibus Francorum* saith, that (*cancellarius*) is no latine word: how be it, he citeth divers Latine writers that doe use it. With him agreeth that excellent man *Petrus Pitheus, libro 2. adversariorum. ca. 12.* and whereas *Lupanus* would derive it from the verb (*cancello*) *Pitheus* confesseth, hee hath good colour for his opinion, though hee thinke it not found; and therefore rather deduceth it (*a cancellis*). (*Cancellare*) is (*litteras vel scriptum lineaper medium ducta damnare*) and seemeth of it selfe likewise to be derived (*a cancellis*) which signifie all one with (*κρυπιδες*) in Greeke, which we in our tongue call a Letis: that is, a thing made of wood or iron barres, laid crosse waies one over another, so that a man may see through

them in and out. And it is to be thought, that Iudgement seates in old time, were compassed in with those barres, being found most necessary to defend the Iudges and other officers from the presse of the multitude, and yet never the more to hinder any mans view, that had a desire or cause to observe what was done. *Cancellarius* at the first by the opinion of *Lupanus*, signified the registers or actaries in court, (*grapharios sc: qui conscribendis & excipendis iudicium actis dant operam*) *Pithaeus* saith, they were such as we now call (*Secretarios*) But this name in our daies is greatly advanced, and not onely in other Kingdomes, but in ours also, is given to him that is the chiefe man for matter of Iustice (in private causes especially) next unto the Prince. For whereas all other Iustices in our Common-wealth, are tied to the law, and may not swerve from it in judgement: the Chancelor hath in this the Kings absolute power, to moderate and temper the written Law, and subjecteth himselfe onely to the Law of nature and conscience, ordering all things *juxta equum & bonum*. And therefore *Stawford* in his *Prerogative*, ca. 26. fo. 65. saith, that the Chancelor hath two powers, one absolute, the other ordinarie: mea-

ning that though by his ordinary power in some cases, hee must observe the forme of proceeding, as other ordinary Iudges: yet that in his absolute power hee is not limited by the written law, but by conscience and equitie, according to the circumstances of the matter in question. But how long hee hath had this power, some would doubt. For *Polidorus Virgilius*, lib. 9. historie Anglica. hath these words of *William the Conqueror*: *Instituit item Scribarum Collegium, qui diplomata scriberent, & ejus Collegii magistrum vocabat Cancellarium, qui paulatim supremus factus est Magistratus, qualis hodie habetur*. And see *Fleta lib. 2. cap. 13*. This high Officer, seemeth to be derived from France unto us, as many other Officers and usages be. For of this thus writeth *Boetius* in his Tractate *De auctoritat. Magni Concilii*. nu. 8. *Consistorio Francie post Principem Dominus Francie Cancellarius, cui velut excelsum iudicii tribunal hoc in regno (sub Principe tamen nostro) moderanti, sigillumq; authenticum, quo sine publicis & patribus regis literis nulla fides adhibetur, liberam administrationem habenti, omnes & singuli regii Iusticiarii, quocunque nomine nuncupentur, ac quavis auctoritate fungantur, eo inferiores sunt. Et merito: Succedit enim in quæstoris locum, &c.*

He that beareth this Magistrate, is called the Chancellor of *England*, anno 7. R. 2. cap. 14. and by the Statute anno 5. Eliz. cap. 18. the Lord Chancellor and Keeper have all one power. Note farther that divers inferior Officers, are called Chancellors, as Chancellor of the Exchequer, an. 25. H. 8. cap. 16. whole office hath been thought by many, to have been created for the qualifying of extremities in the Exchequer. He sitteth in the court, and in the Exchequer chamber, and with the rest of the court ordereth things to the Kings best benefit: he is alwaies in commission with the Lord Treasurer for the letting of the lands that came to the crowne by the dissolution of Abbeyes: and hath by privie seale from the King, power with others to compound for forfeitures of bonds, and forfeitures upon penall statutes. Hee hath also much to doe in the revenue come by the dissolution and first fruits, as appeareth by the acts of uniting them to the Crowne. Chancellor of the Dutchie of *Lancaster*, anno 3. Ed. 6. cap. 1. & an. 5. ejusdem. cap. 26. whole office is principall in that Court to judge and determine all controversies betweene the King and his tenents of the Dutchie land, and otherwise to direct all the Kings affaires belonging to that

Court. Chancellor of the Order. of the Garter, *Stowes annals*, pag. 706. Chancellor of the University, anno 9. H. 5. cap. 8. & anno 2. H. 6. cap. 8. Chancellor of the Court of Augmentations, anno 27. H. 8. cap. 27. & anno 32. ejusdem. cap. 20. & anno 33. ejusdem. cap. 39. Chancellor of the first fruits, anno 32. H. 8. cap. 45. Chancellor of Courts, anno 32. H. 8. cap. 28. Chancellor of the Diocesse, anno 32. H. 8. cap. 15.

Chancerie (*Cancellaria*) is the Court of equitie and conscience, moderating the rigour of other Courts, that are more straightly tyed to the Letter of the Law, whereof the Lord Chancellor of *England* is the chiefe Iudge. *Cromptons jurisd. fol. 41.* or else the Lord Keeper of the Great Seale, sithence the statute 5. Eliz. cap. 18. It taketh the name from the Chancellor, as *M. Camden* noteth in his *Britannia*. pag. 114. *in meo.* The Officers belonging to this court, are (as is abovesaid) the Lord Chancellor or Keeper of the Broad Seale, twelve Masters of the Chancerie, whereof the Master of the Rolles is one and the chiefe, the six Clerkes, the Examiners, a Sergeant at Armes, the Marshall, and Crier of the court, the clerks of the courts, otherwise called Courseters, the Clerkes of the Pettie bagge, the Clerke of the Crowne, the

clerk of the hanapar, the prototary or register, the contrroller of the hanaper, the clerk of appeales, the sealer, the chafe waxe, the clerke of the faculties, the clerk of the patents, clerk of the starre chamber, clerk of presentations, clerke of dismissions, clerke of licences to alienate, clerkes of the enrolments, clerke of the protections, clerke of the court of wards, clerk of the subpenaes, which see described in their places.

Chapell, (*capella*) commeth of the French (*chapelle*. i. *adricula*) and is of two sorts, either adjoining to a Church, as a parcell of the same, which men of worth doe build, *ut ibidem familiaria sepulchra sibi constituent*, to the use of the Romans. *l. 5. c. de religio*: or else separate from the Mother Church, where the Parish is wide, and is commonly called a Chappell of ease: because it is builded for the ease of one or more Parishioners that dwell over farre from the Church, and is served by some inferiour Curate provided at the charge of the rector, or of them that have benefite by it, as the composition or custome is. Whence the word is derived, the *Canonists* differ in opinion. *Rebuffus de pacif. posses. nu. 104.* saying, that some take it (*a capiendo laicos*) others (*a capra*) because it representeth those

cottages, which men were wont to cover over with Goates skins. *Petrus Gregorius in suo syntagma. te. li. 15. ca. 29.* hath these words of this thing: *Capellanus à capellania & capella, cui praeficitur, nominatur: item ab officio seu beneficio & capellania. Capella aliquibus dicta, quasi capiens laicos seu populos, vel capiens laudem: vel secundum praepositum, a cappa Divi Martini, aut à caprinis pellibus, quibus olim altaria tegebantur secundum Archidiaconum. Arbitrari & à simplici tecto, quo oratorii campestre operitur, lateribus undiquaque patentibus & patulis. Tectum enim Gallis simpliciter dicitur (chapelle) a capite. Unde & formata aliqua nomina (chapean, cape, &c.) Aut capella locus qui minoris spatii sit quam ecclesia, quod tot homines non capiat, ut ecclesia. Ita altare capella est. ca. quaesitum, & c. penult. i. quest. 3. Iohan. Andreas. in ca. 1. de succes. ab intesta. & prabenda cum onere quotidie celebrandi sacram liturgiam. ca. significatum. II. de prabend. & oratorium, ca. autoritate: de privilegiis. in 6. quod in eo loco orationes non alia res profana peragi debeant. ca. pen. & fina. 42. distinct. The same author in his booke *de beneficiis*, ca. 11. nu. 10. hath these words: *Dicti porro primitus capellani, a cappa. Sancti Martini, quam Reges Francorum ob adiutorium in praeliis solebant secum habere: quam ferent**

tes & custodientes, cum ceteris san-
ctorum reliquiis clerici, capellani
caperant vocari, ut omnia refert
Valafridus Strabo. Abbas Augu-
stus, ca. fina. de incrementis rerum
ecclesiastica.

There is of these chapels one
kind called a free chapel, which
seemeth to be such as hath main-
tenance perpetuall toward the
upholding thereof, and wages of
the curate, by some land charita-
bly bestowed on it, without the
charge of the Rector or parish.
anno 37. H. 8. cap. 4. anno 1. Ed. 6.
ca. 14.

Chapellaine, (*capellanus*) is he
that performeth divine service in
a chapel; and therefore in our
common law, it is used most or-
dinarily for him, that is depen-
ding upon the King, or other man
of worth, for the instruction of
him and his family, the execu-
ting of prayers and preaching in
his private house, where com-
monly they have a chapel for
that purpose, as anno 21. H. 8.
ca. 13. Where it is set downe
what persons may priviledge one
or moe Chaplaines, to disconti-
new from their benefices, for
their particular service.

Chapters (*capitula*) commeth
of the French (*chapitre*. i. *caput*
libri) It signifieth in our common
law, a summary or content of
such matters, as are to be inqui-
red of or presented before Iusti-

ces in Eyre, Iustices of a shire, or of
peace in their session s. So is it
used, anno 3. Ed. 1. ca. 27. in
these words: and that no Clerke
of any Iustice, Escheatour, or
Commissioner in Eyre, shall take
any thing for delivering chapi-
ters, but onely Clerks of Iusti-
ces in their circuits: and againe,
anno 13. ejusdem cap. 10. in these
words: and when the time com-
meth, the Sheriff: shall certifie
the chapters before the Iustices
in Eyre, how many writs hee
hath, and what, &c. Britton like-
wise useth the same word in this
signification, cap. 3. Chapters or
(*capitula*) be now called articles
most ordinarily, and are delive-
red as well by the mouth of the
Iustice in his charge, as by the
Clerks in writing to the en-
quest; whereas in ancient times
(as appeareth by Bracton and
Britton) they were after an ex-
hortation given by the Iustices
for the good observation of the
lawes and Kings peace, first read
distinctly and openly in the
whole Court, and then delive-
red in writing to the grand en-
quest. And the same order doth
M. Lamberd wish to be kept in
these dayes also. Eirenar. lib. 4.
cap. 4. pag. 393. Horn in his mir-
rour of Iustices calleth them arti-
cles, & expresth what they were
wont to containe. li. 3. ca. des ar-
ticles in Eyre. An example of these
chap-

chapters or articles you have in the booke of assises, fol. 138. nu.

44. as also in Roger Hoveden, parte poster. suorum annal. in Richardo primo. fo. 423.

Chapter, (*capitulum*) signifieth in our common Law (as in the cannon Law, whence it is borrowed) *congregationem clericorum in ecclesia cathedrali, conventuali, regulari, vel collegiata*: and in another signification, *locum in quo fiunt communes tractatus collegiatorum*. It hath other significations, though not greatly worth the repeating in this place, which you may read in *Linwods provincials, glos. in ca. quia in continencia, de constitutionibus, verb. Capitulis*. Why this collegiat company should be called (*capitulam*) of the canonists, a man may make a question: and for answer, it may be said, that it is metaphorically so termed, the word originally signifying a little head. For this company or corporation is a kind of head, not onely to rule and governe the Diocese in the vacation of the Bishopricke, but also in many things to advise the Bishop, when the See is full. See *Panormitan. in ca. capitulum. extra de rescriptis*.

Charta perdonationis se defendendo, is the forme of a pardon for slaying another in a mans owne defence. *Register, original. fo. 287.*

Charta perdonationis Vilagaria, is the forme of a pardon for a man that is out-lawed. *Reg. orig. fo. 288. 388.*

Charter (*charta*) commeth of the French (*chartres. i. instrumenta*) It is taken in our law, for written evidence of things done betweene man and man, whereof *Bracton. lib. 2. cap. 16. num. 1.* saith thus: *Fiunt aliquando donationes in scriptis, sicut in chartis ad perpetuam rei memoriam, propter brevem hominum vitam, &c.* and a little after: *nu. 12. Et sciendum, quod chartarum alia regia, alia privatorum, & regiarum alia privata, alia communis, & alia universalis. Item privatorum, alia de profectionamento & simplici, alia de feoffamento condicionali sive conventionali: & secundum omnia genera feoffamentorum fieri potest. Item privatorum alia de recognitione pura vel condicionali. Item alia de quiete-clamantia: Item alia de confirmatione, &c.* and so thorough the chapter. *Britton* likewise in his 39. chapter, divideth charters into the charters of the King, and charters of private persons. Charters of the King are those, whereby the King passeth any graunt to any person or more, or to any body politicke: as a charter of exemption that a man shall not be empaneled upon any Iurie. *Kitchin. fo. 114. & fo. 177. charter of*

of pardon, whereby a man is forgiven a felony, or other offence committed against the Kings Crowne and dignity. *Broke, tit. Charter of pardon.* Charter of the Forest, wherein the lawes of the Forest are comprised. *anno 9. H. 3. Cromptons Jurisd. fol. 147. Pupilla oculi, parte. 3. cap. 22. Manwood. parte. 1.* of his Forest lawes. *fol. 1.* where he setteth downe the Charters of *Canutus*, and *fol. 17.* where hee hath set downethat which was made, *anno 9. H. 3.* with the charter of the forest which wee use, *M. Skene* saith, that the lawes of the forest in Scotland doe agree. *de verbo signif. verbo. Venison.* Charter of land. *Broke, eodem titulo.* That which wee call a Charter, the *Lombards in libris feodalibus*, call *præceptum (præceptionem)* *Hotama. verbo præceptum in verbis feodalibus.* Of these Charters you have also a long discourse in *Fleta, lib. 3. cap. 14.* who expoundeth every substantiall part of a deed of gift particularly in order.

Charter land, (terra per chartam) is such as a man holdeth by Charter, that is, by evidence in writing; otherwise called Freehold, *anno 19. H. 7. cap. 13.* and *Kitchin, fol. 86.* and these in the Saxons time, were wont to be called (*Bockland*) *Idem fol. 89.* and *Lamberd* in his explication of

Saxon words, *verbo Terra ex scripto*, which was held as hee there saith, with more commodious and easier conditions, then (*Folkland*) was: that is land held without writing. And the reason he giveth, because that was *hereditaria, libera, atq; immunis*: whereas *fundus sine scripto censum pensitabat annuum, atq; officiorum quadam servitute est obligatus. Priorem viri plerunq; nobiles atq; ingenui, posteriorem rustici ferè & pagani possidebant. Illam nos vulgò freehold & per chartam, hanc ad voluntatem domini appellamus.* Thus farre *M. Lamberd.*

Charter partie (charta partita) is nothing but that which we call a paire of Indentures, containing the covenants and agreements made betweene Merchants, or Sea-faring men, touching their marine affaires, *anno 32. H. 8. cap. 14.*

Chartis reddendis, is a writ, which lyeth against him that hath Charters of feofment delivered him to be kept, and refuseth to deliver them. *old. nat. br. fo. 66. Register orig. fo. 159.*

Chase. See *Chace.*

Chatell. See *Catell.*

Chawnce medley (Infortunium) commeth of two French words (*chance. i. lapsus*) and (*messer. i. miscere*) It signifieth in our common law, the casuall slaughter of a man, not altogether with-

out the fault of the slayer. *Stawnf. pl. cor. li. 1. ca. 8.* calleth it *homicide* by misadventure, *West.* calleth it *homicide mixt. part. 2. symbol. titulo Indictments. sect. 50.* and there defineth it thus: *Homicide mixt* is, when the killers ignorance or negligence is joyned with the chance: as if a man lop trees by an high way side, by which many usually travell, and cast downe a bow, not giving warning to take heed thereof, by which bow one passing by is slaine: In which case he offendeth, because hee gave no warning, that the party might have taken heed to himselfe. See *Skene de verbo signifi. verbo Melle-tum.*

Changeour, is an officer belonging to the Kings mint, whose function seemeth especially to consist, in exchanging coine for gold or silver in the masse, brought in by Merchants or others, *anno 2. H. 6. ca. 12.*

Chawntery, (*cantaria*) is a Church or Chappell endewed with lands or other yearly renew, for the maintenance of one or moe Priests, daily to sing Masse for the soules of the Donours, and such others, as they doe appoint, *anno 37. H. 8. ca. 4. anno 1. Ed. 6. ca. 14.*

Check rolle, seemeth to bee a rolle or booke, that containeth the names of such, as are atten-

dants and in pay to great personages, as their household servants. It is otherwise called the chequer rolle. *anno 24. H. 8. ca. 13. ann. 3. H. 7. cap. 13.* and seemeth to have one etymologie with eschequer. Which see.

Chevage, (*chevadium*) com-meth of the French (*chef. i. caput*) It signifieth with us, a summe of money paid by villeins to their Lords, in acknowledgement of their slavery. Whereof *Bracton, li. 1. ca. 10.* saith thus: *chevadium dicitur recognitio in signum subjectionis & dominii de capite suo.* It seemeth also to bee used, for a summe of money, yearly given by a man to another of might and power, for his avowement, maintenance, and protection, as to their head or leader. *M. Lam-berts, li. 2. cap. 5. Eirenarch*, writeth it (*chivage*) or rather (*chiefsage*.)

Chevisance, commeth of the French (*chevir. i. venir a chef de quelque chose*) to come to the head or end of a busines, to perfect a matter. This word is used for bargaining, *anno 37. H. 8. cap. 9. & anno 13. Eliza. ca. 5. & 8. ann. 10. R. 2. cap. 1. & anno 3. H. 7. cap. 5.*

Chief. See *Capite.*

Chiefe pledge (*plegius, vel vas capitalis*) *an. 20. H. 6. ca. 8.* For the understanding of this word, See *Borrowhead.*

Childwit, cometh of the Saxon word (*child*), and (*wit*) which some say, in that tongue, is a termination of certain words without signification, as (*dom*) in (*Christendom*) or (*hood*) in (*childhood*) with us. But for the signification of (*wit*) see *Bloodwit*. *Childwit* signifieth a power to take a fine of your bondwoman begotten with child without your consent; *Rastell. expost. of words.*

Chimin, (*chiminus*) cometh from the French (*chemin. i. aditum, via*) and signifieth in our common law, a way. It is divided into two sorts: the Kings high way, and a private way, *Kitchin fo. 35*. The Kings high way (*chiminus regius*) is that, by which the Kings subjects, and all others under his protection, have free liberty to passe, though the propertie of the soile of each side, where the way lieth, may perhaps belong to some private man. A way private is that, by which one man or more have libertie to passe, either by prescription or by charter, through another mans ground. And this is divided into *chymin in grosse*, and *chymin appendant*. *Kitchin fo. 117*. *Chymin in grosse* is that way, which a man holdeth principally and solely in it selfe; *chimin appendant* is that, which a man hath adjoynd to some o-

ther thing as appertinent thereunto. For example, if a man hire a close or pasture, and covenant for ingresse and egress to and from the said Close, through some other ground, by the which otherwise hee cannot passe. Or *Chimin in grosse* may be that, which the Civilians call personall: as when one covenanteth for a way through another mans ground, for himselfe and his heires: *Chimin appendant*, on the other side, may be that which they call real: as when a man purchaseth a way through another mans ground, for such as do or shall dwell in this or that house for ever, or be owners of such a manor.

Chiminage, (*chiminagium*) signifieth a toll for wayfarage thorow the Forest, *Cromptons Jurisd. fo. 189* and *Manwood parte 1. of his Forest lawes, pag. 86*. See *Chimin*. The Feudists call it, *Pedagium*. See *Chimin*.

Chirographer of Fines (*chirographus finium* or *concordiarum*) cometh of the Greeke (*χειρ-γραφοι*) which signifieth a writing of a mans owne hand, whereby hee acknowledgeth a debt to another. It signifieth in our common law, him in the Common Bench office, that ingrosseth Fines in that Court acknowledged, into a perpetuall record, after they be acknow-

ledged, and fully passed by those Officers, by whom they are formerly examined; and that writeth and delivereth the Indentures of them unto the partie, *anno 2. H. 3. cap. 8. and West. Symbol. parte 2. titulo fines. sect. 114. & 129. Fitzh. nat. br. fol. 147. A.* This Officer also maketh two Indentures, one for the Buyer, another for the Seller; and maketh one other indented piece, containing also the effect of the Fine, which hee delivereth over to the *Custos brevisium*, that is called the foot of the Fine. The *Chirographer* also, or his Deputy, doth proclaime all the Fines in the Court every Terme, according to the Statute; and then repairing to the office of the *Custos brevisium*, there indorseth the Proclamations upon the backside of the foot thereof: and alway keepeth the writ of Covenant, as also the note of the Fine.

Chivage. See *Chevage.*

Chivatrie, (servitium militare) commeth of the French (*chevalier. i. eques*) and signifieth in our common law, a tenure of land by Knights service. For the better understanding whereof, it is to bee knowne, that there is no land, but is holden mediately or immediately of the Crowne, by some service or other: and therefore are all our Free-holds that

are to us and our heires, called (*Feuda*) feeles, as proceeding from the benefit of the King, for some small yearly Rent; and the performance of such services, as originally were laid upon the Land at the donation thereof. For as the King gave to the great Nobles his immediate tenents, large possessions for ever, to hold of him for this or that rent and service: so they againe in time parcelled out to such as they liked, their lands so received of the Kings bounty, for rents and services, as they thought good. And these services are all by *Litleton* divided into two sorts: Chivalrie, & Socage. The one is martiall and military, the other clownish and rusticall. Chivalrie therefore is a tenure of service, whereby the tenant is bound to performe some noble or military office unto his Lord, and is of two sorts: either regall, that is, such as may hold onely of the King: or such as may also hold of a common person, as well as of the King. That which may hold onely of the King, is properly called *Servitium*, or *Sergeantia*: and is againe divided into *grand* or *petit*, i. great or small. Great, commonly called *Grand Sergeantie*, is that where one holdeth lands of the King by service, which hee ought to doe in his owne person unto him: as to beare the Kings Banner,

Banner, or his Speare, or to leade his Hoast, or to be his Marshall, or to blow a Horne, when hee seeth his enemies invade the Land, or to find a man at Armes to fight within the foure Seas, or else to doe it himselfe, or to beare the Kings Sword before him at his Coronation, or at that day to be his Sewer, Carver, Butler, or Chamberlaine, *Littleton tit. Sergeantie. Petit Sergeantie*, is where a man holdeth land of the King, to yield him yearly some small thing toward his warres, as a Sword, Dagger, Bow, Knife, Speare, paire of Gloves of maile, a paire of Spurs, or such like. *Littleton titulo petit Sergeantie. Chivalrie*, that may hold of a common person, as well as of the King, is called (*scutagium*) *escuage*, that is service of the shield. And this is either uncertaine or certaine. *Escuage* uncertaine is likewise twofold: first, where the tenent by his tenure is bound to follow his Lord going in person to the Kings wars against his enemies, either himselfe, or to send a sufficient man in his place, there to be maintained at his cost so many daies, as were agreed upon betweene the Lord and his first tenent at the granting of the fee. And the dayes of such service seeme to have beene rated by the quantity of the land so holden:

as if it extend to a whole Knights fee, then the tenent was bound thus to follow his Lord forty daies. And a Knights fee, was so much land, as in those dayes was accounted a sufficient living for a Knight: and that was 680 acres, as some opinion is, or 800 as others thinke: or 15 pounds *per annum. Camdens Brittan. pag. 110. in meo. S. Thomas Smith sayeth, that Censui equestris* is forty pounds revenue in free lands. If the law extend but to halfe a Knights fee, then the tenent is bound to follow his Lord, as above is said, but twenty dayes. If to a fourth part, then ten daies, *Fitzh. nat. br. fo. 83. C. & 84. C. E.* The other kind of this Escuage uncertaine is called *Castelward*: where the tenent by his land is bound, either by himselfe, or by some other, to defend a Castle, as often as it shall come to his course. *Escuage* certaine, is where the tenent is set at a certaine summe of money, to bee paid in lieu of such uncertaine service, as that a man shall yearly pay for a Knights Fee, 20 shillings, *Stow. annal. pag. 238.* for halfe a Knights Fee, tenne shillings, or some like rate. And this service, because it is drawne to a certaine rent, groweth to be of a mixt nature: not meereley Socage, for that it smelleth not of the Plough, and yet Socage in effect:

effect : being now neither personall service , nor uncertaine , *Litton, titulo Socage*. This tenure called Chivalrie , hath other conditions annexed unto it ; as Homage, Fealty, Wardship, Reliefe, and Mariage, *Bracton lib. 2. cap. 35.* which , what they signifie, looke in their places. *Chivalrie* is either generall or especiall. *Dyer fo. 161. num. 47.* Generall seemeth to be , where onely it is said in the Feofment, that the tenant holdeth *per servitium militare*, without any specification of Sergeanty, Escuage, &c. Speciall, that which is declared particularly what kind of Knights service hee holdeth by.

Chorall, (*choralis*) seemeth to be any , that by vertue of any of the orders of Clergie, was in ancient time admitted , to sit and serve God in the Quire, which in Latine is termed *Chorus*.

Chose, (*res*) is the french word as generall as (*thing*) is with us. It is in the common law, used with divers Epithites worthie the Interpretation : as, *Chose locall*, is such a thing as is annexed to a place. For example : a Mill is *Chose locall*, *Kitchin fol. 18.* *Chose transitorie*, in the same place seemeth to be that thing which is moveable, and may be taken away , or carried from place

to place. *Chose in action*, is a thing incorporeall, and onely a right : as an Annuitie, an Obligation of debt, a Covenant, or Voucher by warrantie, *Broke titulo. Chose in action*. And it seemeth, that *Chose in action*, may be also called *Chose in suspense*, because it hath no reall existence or being, neither can be properly said to be in our possession, *Broke ibidem*.

Churchwardens (*Ecclesiarum gardiani*) bee Officers yearly chosen, by the consent of the Minister and Parishioners, according to the Custome of everie severall place, to looke to the Church, Church-yard, and such things as belong to both, and to observe the behaviours of their Parishioners for such faults as appertaine to the Jurisdiction or Censure of the court Ecclesiasticall. These be a kind of Corporation, inabled by law, to sue for any thing belonging to their Church, or Poore of their Parish. See *Lamberd* in his Pamphlet of the duty of *Churchwardens*.

Churcheset, is a word that I find in *Fleta lib. 1. cap. 47. in fine*. whereof he thus writeth: *Certam mensuram bladi tritici significat, quam quilibet olim sancta Ecclesia die Sancti Martini tempore tam Britonū quam Anglorū contribuerunt. Plures tamen magnates, post Roma-*

Romanorum adventum, illam contributionem secundum veterem legem Moysi nomine primitiarum dabant: prout in brevi regis Knuti, ad summum Pontificem transmissio, continetur, in quo illam contributionem, (chirched) appellant, quasi semen Ecclesie.

Cinamom (*cinamomum*) is a tree, whereof the barke is known to be a pleasant, comfortable, and medicinall spice, which you have described in *Gerards Herball*, li. 3. cap. 142. This is reckoned among garbleable spices, anno, 1. Jac. cap. 19.

Cinque portes (*quinque portus*) be those speciall Havens, that lye toward *France*, and therefore have beene thought by our Kings, from to time, to be such as ought most vigilantly to be observed against invasion. In which respect, the places where they be, have an especiall governour or keeper, called by his office Lord Warden of the Cinque Ports: and divers priviledges granted unto them, as a particular jurisdiction, their Warden having the authority of an Admirall among them, and sending out writs in his owne name. *Crompton* in his Jurisdiction, fol. 28. nameth the Cinque ports, *Dover, Sandwich, Rye, Hastings, Winchelsea, Rumeney, Hith*: whereof some, because the number exceedeth five, must either be added to the first insti-

tution, by some later graunt, or be accompted as appendents to some of the rest. See *Gardein of the Cinque ports*: and the Statute anno 32. H. 8. cap. 48.

Circuit of action (*circuitus actionis*) is a longer course of proceeding, to recover the thing sued for, then is needfull. See the new *Termes of law*.

Circumstantibus, is a word of art, signifying the supply or making up of the number of Jurors, (if any empaneled appeare not, or appearing, be challenged by either partie) by adding unto them so many other of those that are present or standing by, as will serve the turne, v. an. 35. H. 8. cap. 6. and anno 5. Elizab. cap. 25.

Citie (*civitas*) commeth of the French (*citè*) and signifieth with us, as it doth in other regions, such a Towne corporate, as hath a Bishop and a Cathedrall Church. For *Lucas de Penna lege unica, tituli, De Metropol. Beryto. tit. 21. lib. 10. Cod.* hath these words: *Idem locus, urbs, civitas, & oppidum appellatur. (Pro quo est etiam infra. De spectaculis. l. Nemo.) Civitas enim dicitur, quatenus cum iustitia & magistratum ordine gubernatur, oppidum, quatenus est ibi copia incolarum: & urbs, quatenus muris debito more cingitur. Proprie autem dici-*

*dicatur civitas, quæ habet Episcopum. Supra de Episcop. & Cleri. l. Nulli. Aliàs dicitur generaliter omnis habitatio plurimorum, quæ muro cingitur. de verb. signif. lib. 2. & de penu lega. l. Nam quod s. Si ita. Sed stricte loquendo, si Episcopo caret, dicitur urbs. de verb. signif. l. Pupillus. s. Oppidum, &c. Yet M. Crompton in his Iurisdictiones, where he reckoneth up the Cities, leaveth out *Elye*, though it have a Bishop and a Cathedrall Church, and putteth in *Westminster*, though now it have no Bishop. And ann. 35. *Elix. cap. 6.* *Westminster* is called a Citie, anno 27. *eiusd. cap. 5.* Of the Statutes not printed, it is alternatively termed a Citie or Borrow. It appeareth by the Statute, 35. *H. 8. cap. 10.* that then there was a Bishop of *Westminster*. *Civitas*, according to *Aristotle, li. 3. politicorum, ca. pri.* is defined to be a certaine or uniforme government of the Inhabitants, & *Cæsar civitatem vocat populum eodem jure utentem. Camd. Brittan. pa. 310.* But this is the generall definition of a Common-wealth, and not of a Citie, at the least, as we now a dayes particularly take it. For over and beside that which is above said, *Cassaneus in consuetudi. Burg. pag. 15.* saith, that France hath within the territories of it, one hundred and foure cities, and giveth reason of this*

his saying, because there be there so many seates of Archbishops and Bishops.

Clack, as to clack, force, and bard, aliàs, beard good woolls, anno 8. *H. 6. ca. 22.* whereof the first, viz. to clack wool, is to cut off the sheepes marke, which maketh it to weigh lesse, and so yield the lesse custome to the King; to force wooll, is to clip off the upper and more heary part of it; to bard or beard it, is to cut the head and neck from the rest of the fleece.

Clamea admittenda in itinere per Attornatum, is a writ whereby the King commandeth the Iustices in *Eyre* to admit of ones claime by Attorney, that is employed in the Kings service, and cannot come in his owne person. *Register orig. fol. 19. b.*

Clayme (clameum) is a challenge of Interest in any thing that is in the possession of another, or at the least out of his owne: as, claime by Charter, claime by Descent. *old. nat. br. fol. 11. Si dominus infra annum clameum qualitercunque apposuerit: Bracton. lib. 1. cap. 10.* See the definition and divers sorts of claime in *Plowden. Casu Stowel. fol. 359. a.*

Clarentius. See *Herald.*

Clergie (clerus, clerisatus) is diversly taken: sometime for the whole number of those, that are

(de

de Clero domini) of the Lords lot or share, as the tribe of *Levy* was in *Iudea*: some time for a plee to an indictment, or an appeale, and is by *Stawns. pl. cor. li. 2. ca. 41.* thus defined. Clergie is an auncient liberty of the Church, which hath beene confirmed by divers Parliaments, and is, when a Priest, or one within orders, is arraigned of felony, before a secular Iudge, hee may pray his Clergie: which is as much, as if hee prayed to be delivered to his Ordinary, to purge himselfe of the offence objected. And this might be done in case of murther. *Cooke. li. 4. fo. 46. a.* This liberty is mentioned in *articulis cleri. anno 9. Ed. 2. cap. 16.* and what persons might have their clergy, and what not, see *Stawns. pl. cor. lib. 2. cap. 42. & 43.* Howbeit there bee many statutes made since he writ that book, whereby the benefit of Clergy is abridged, as *anno 8. El. cap. 4. ann. 14. ejusdem, ca. 5. anno 18. ejusd. cap. 4. 6. 7. & anno 23. ejusd. cap. 2. a. 29. ejusd. c. 2. anno 31. ejusd. ca. 12. a. 39. ejusd. cap. 9. & cap. 15.* Of this see *Cromptons* Iustice of peace, fol. 102. 103. 104. 105. and *Lamberds Eirenarcha. lib. 4. ca. 14. pag. 543.* And note by the way, that the ancient course of the law in this point of Clergy, is much altered. For by the statute, *anno, 18. Eliza. ca. 7.* Clerks

bee no more delivered to their Ordinaries to bee purged, but now every man, though not within orders, is put to reade at the barre, being found guilty, and convicted of such felony as this benefit is still granted for: and so burnt in the hand and set free for the first time, if the Ordinaries Commissioner, or *deputè* standing by doe say: (*legit us clericus*) or otherwise suffereth death for his transgression.

Clerico admittendo, is a writ directed to the Bishop, for the admitting of a Clerke to a benefice upon a (*Ne admittas*) tryed & found for the party that procureth the writ. *Regist. orig. fo. 31. 6.*

Clerico capto per statutum mercatorum, &c. is a writ for the delivery of a Clerke out of prison, that is imprisoned upon the breach of a statute merchant. *Reg. orig. f. 147*

Clerico convicto commissio gaole in defectu ordinarii deliberando, &c. is a writ for the delivery of a Clerke to his Ordinary, that formerly was convicted of felony, by reason his ordinary did not challenge him according to the priviledge of Clerks. *Register, orig. fo. 69. a.*

Clerico infra sacros ordines constituto non elegendo in officium, is a writ directed to the Bailiffes, &c. that have thrust a Bayliwick or bedleship upō one in holy orders, charging them to release him a-

gaine. *Register, orig. fol. 1143. a.*

Clerk, (clericus) hath two significations: one, as it is the title of him, that belongeth to the holy ministry of the Church, that is (in these dayes) either minister, or deacon, of what other decree or dignity soever: though according to former times, not onely *sacerdotes & diaconi*, but also, *subdiaconi, cantores, acolyti, exorciste, & ostiarii* were within this accompt, as they bee at this day, where the Canon-law hath full power. And in this signification, a Clarke is either religious (otherwise called *regular*) or *secular*, anno 4. Hen. 4. cap. 12. The other signification of this word, noteth those, that by their function, or course of life, practise their pen in any court, or otherwise; as namely, the Clerke of the rolles of Parliament, Clerkes of the Chauncery, and such like, whose peculiar offices I purpose to set downe in order, according to that knowledge that I could procure of them.

Clerke of the Parliament rolles, (clericus rotulorum Parlamenti), is hee that recordeth all things done in the high Court of Parliament, and engrosseth them fairely into parchment rolles, for their better keeping to all posterity. Of these there be two, one of the higher, another of the lower or common house, *Cromptons Iurisd.*

fol. 4. & 8. Smith de repub. Anglor. pag. 38. See also *Vowels* book touching the order of the Parliament.

Clerke of the Crowne in the Chancery (clericus Corone in Cancellaria) is an officer there, that by himselfe or his deputie, is continually to attend the Lord Chancellor, or Lord Keeper, for speciall matters of estate by commission, or the like, either immediately from his Majesty, or by order of his Privie Councell, as well ordinary as extraordinary, viz. commissions of Lieutenancies, of Iustices errant, and of assises, of Oyer and Terminer, of Goale-delivery, of the peace, and such like, with their writs of association, and *dedimus posestatem*, for taking of oathes. Also all generall pardons upon graunts of them at the Kings coronation, or at a Parliament, where hee sitteth in the higher house at the Parliament time; the writs of Parliament, with the names of Knights and Burgeses, which be to bee returned into his office. Hee hath also the making of all speciall pardons, and writs of execution, upon bonds of statute of the Staple forfeited: which was annexed to his office in the raigne of Queene Mary, in consideration of his continuall and chargeable attendance: both these before being common for

for every Courfitour, and clerk of court to make.

Clerke of the Crowne (clericus Corona) is a clerk or officer in the Kings Bench, whose function is to frame, reade, and record all Indictments against Traitors, Felons, and other offenders there arraigned upon any publicke crime. Hee is otherwise termed Clerke of the Crowne office. And *anno 2. H. 4. ca. 10.* hee is called Clerke of the Crowne of the Kings Bench.

Clerke of the Extreates (clericus extractorum) is a Clerk belonging to the Exchequer, who termely receiveth the Extreates out of the Lord Treasurers Remembrancer his office, and writeth them out to be levied for the King. He also maketh ceduls of such summes extreated, as are to be discharged.

Clerk of Assise (clericus assise) is hee, that writeth all things judicially done by the Iustices of Assise in their Circuits, *Cromptons Iuris d. fo. 227.*

Clerke of the Pele (clericus pelis) is a Clerke belonging to the Exchequer, whose office is, to enter every Tellers Bill into a Parchement Rolle called (*Pellis receptorum*) and also to make another Rolle of Paiments, which is called (*Pellis exitum*) wherein hee setteth downe, by what warrant the mony was paid.

Clerk of the Warrants (clericus warrantorum) is an officer belonging to the court of Common plees, which entreth all warrants of Attorney for plaintiffe and defendant, and enrolleth all deeds of Indentures of bargaine, and sale, which are acknowledged in the Court, or before any Judges out of the Court. And hee doth extreate into the Exchequer, all Issues, Fines, and Amercements, which grow due to the King any way in that Court, and hath a standing Fee of ten pound of the King, for making the same extreates. See *Fitzh. nat. br. fo. 76. in prin.*

Clerk of the Petie bag (clericus parve bagia) is an officer of the Chauncerie, of which sort there be three, and the Master of the Roles their chiefe. Their office is to record the returne of all Inquisitions out of every Shire, all Liveries granted in the Court of Wards, All *ouster les mains*, to make all patents of Customers, Gaugers, Controllers, and Aulnegers, All *conge d'eslres*, for Bishops, All *liberateis*, upon extents of statute staples, the recoverie of Recognisances forfeited, and all Elegits upon them, the Summons of the Nobility, Clergy, and Burgeses to the Parliament; Commissions directed to Knights, and other of every Shire for seissing of the Subsidies. Writs for the

nominations of Collectours for the fifteenth, and all traverſes upon any office, bill or otherwiſe, and to receive the money due to the King for the ſame. This officer is mentioned, *anno 33. H. 8. cap. 22.*

Clerke of the Kings great wardrobe (*clericus magna garderoberegis*) is an officer of the Kings houſe, that keepeth an account or Inventarie in writing, of all things belonging to the Kings wardrobe. This officer is mentioned, *anno 1. Ed. 4. ca. 1.*

Clerke of the Market (*clericus mercati*) is an officer of the Kings houſe, *anno 1. Ed. 4. ca. 1. & anno 13. R. 2. ca. 4.* whoſe duty is to take charge of the Kings meaſures, and to keepe the ſtandards of them, (that is) the examples of all the meaſures that ought to be through the land: as of Elms, Yards, Lagens, as Quarts, Pottles, Gallons, &c. of Weights, Buſhels, and ſuch like, and to ſee, that all meaſures in every place, bee anſwerable unto the ſaid Standard, *Fleta li. 2. ca. 8, 9, 10, 11, 12.* of which office, as alſo of our diverſitie of Weights and Meaſures, you may there find a Treatiſe worth the reading. *Britton* alſo in his 30. chapter ſaith in the Kings perſon, to this effect: We will that none have Meaſures in the realme but wee our ſelves: but that every man take his Mea-

ſures and Weights from our Standards: and ſo goeth on with a Tractat of this matter, that well ſheweth the ancient law and practiſe in this point. Touching this officers duty, you have alſo a good ſtatute, *anno 13. R. 2. cap. 4.*

Clerk of the Kings ſilver (*clericus argenti Regis*) is an officer belonging to the court of Commonplees, unto whom every Fine is brought, after it hath bene with the *Cuſtos brevium*, and by whom the effect of the writ of Covenant is entred into a Paper booke; and according to that note, all the Fines of that Terme are alſo recorded in the Roles of the Court. And his entrie is in this forme: He putteth the Shire over the Margin, and then ſaith, *A. B. dat domino regi dimidiam merkam* (or more, according to the value) *pro licentia concordandi. Cum C. D. pro talibus terris, in tali villa, & habet chirographum per pacem admiſſum, &c.*

Clerke of the Peace (*clericus pacis*) is an officer belonging to the Sessions of the peace. His dutie is, in the Sessions to reade the Endictments, to enroll the Acts, and draw the proceſſe: to record the Proclamations of rates for Servants wages, to enroll the diſcharge of Apprentices, to keepe the Counterpaine of the Indenture of Armour, to keepe the

the Register booke of Licenses, given to badgers and laders of corne, and of those that are licensed to shoot in Guns, and to certify into the Kings Bench transcripts of Indictments, Outlawries, Attainders, and Convictions had before the Iustices of the Peace, within the time limited by statute, *Lamberds Eirenarcha. lib. 4. cap. 3. fo. 379.*

Clerke of the Signet (clericus signetti) is an officer attendant continually on his Majesties principall Secretary, who alwaies hath the custodie of the Privie Signet, as well for sealing his Majesties private Letters, as also such grants as passe his Majesties hands by Bill assigned. Of these there be foure that attend in their course, and have their diet at the Secretaries table. More largely you may reade of their office, in the statute made *anno 27. H. 8. cap. 11.*

Clerk of the Privie Seale (clericus privati sigilli) is an officer (whereof there be foure in number) that attendeth the Lord Keeper of the Privie Seale, or if there be none such, upon the principall Secretarie, writing and making out all things that be sent by warrant from the Signet to the Privie Seale, and are to be passed to the Great Seale: as also to make out (as they are termed) Privie Seales, upon any

especiall occasion of his Majesties affaires; as for loane of money, or such like. Of this officer, and his function, you may reade the statute *anno 27. H. 8. ca. 11.* Hee that is in these daies called the Lord Keeper of the Privie Seale, seemeth in ancient time to have been called Clerke of the Privie Seale, and to have beene reckoned in the number of the great Officers of the realme. Reade the statute, *anno 12. R. 2. ca. 11.*

Clerk of the Iuries or Jurata writs (clericus juratorum) is an officer belonging to the court of the Common plects, which maketh out the writs called (*Habeas corpora*) and (*Distringas*) for appearance of the Iurie, either in Court, or at the Assises, after that the Iurie or Panell is returned upon the (*venire facias.*) He entrench also into the Roles the awarding of these writs, and maketh all the continuance from the going out of the (*Habeas corpora*) untill the verdict be given.

Clerk of the Pipe (clericus pipe) is an officer in the Kings Exchequer, who having all accounts and debts due to the King delivered and drawne downe out of the Remembrancers offices, chargeth them downe into the great Roll: who also writeth Summons to the Sheriffe, to levie the said debts upon the goods and cattels of the debtors: and if

they have no goods, then doth he draw them downe to the Lord Treasurers Remembrancer, to write extreates against their lands. The ancient revenue of the Crowne, remaineth in charge before him, and he seeth the same answered by the Fermers and Sheriffes to the King. He maketh a charge to all Sheriffes of their Summons of the Pipe and Greenwax, and seeth it answered upon their accounts. Hee hath the drawing and ingrossing of all leases of the Kings land.

Clerk of the Hamper or Hanaper (*clericus hanaperij*) is an officer in Chauncerie, anno 2 Ed. 4. ca. 1. otherwise called, Warden of the Hamper, in the same statute, whose function is, to receive all the mony due to the Kings Majestic, for the seales of charters, patents, commissions, and writs, as also fees due to the officers for enrolling and examining the same, with such like. He is tied to attendance on the Lord Chancellor, or Lord Keeper, daily in the Terme time, and at all times of sealing: having with him leather bags, wherein are put all charters, &c. after they be sealed by the Lord Chancellor, and those bags being sealed up with the Lord Chancellors Private Seale, are to be delivered to the Controller of the Hanaper, who upon receite of them, doth as you shall

reade in his office. This Hanaper representeth a shadow of that which the Romans termed (*Fiscum*) that contained the Emperours treasure.

Clerk of the Plee (*clericus plactorum*) is an officer in the Exchequer, in whose office all the officers of the Court (upon especiall priviledge belonging unto them) ought to sue or to be sued upon any action.

Clerk of the Treasurie (*clericus thesauraria*) is an officer belonging to the Common ples, who hath the charge of keeping the Records of the Court, and maketh out all the Records of *Nisi prius*, hath the Fees due for all searches, and hath the certifying of all Records into the Kings Bench, when a writ of Errour is brought; and maketh out all writs of (*Superfideas de non molestando*) which are granted for the Defendants, while the writ of Errour hangeth. Also hee maketh all exemplifications of Records being in the Treasurie. Hee is taken to be the servant of the chiefe Iustice, and removeable at his pleasure: whereas all other officers are for terme of life. There is also a Secundarie, or under Clerk of the Treasurie for assistance, which hath some allowances. There is likewise an under keeper, who alway keepeth one key of the treasury doore, and the chiefe

chiefe Clerke of the Secundarie another : so the one cannot come in without the other.

Clerke of Effoines, (*clericus effoniorum*) is an officer belonging to the court of Common-plees, who onely keepeth the Effoines role, and hath for entring every effoine, sixe pence, and for every exception to barre the effoine, in case where the partie hath omitted his time, sixe pence. Hee hath also the providing of parchment, and cutting it out into roles, and marking the numbers upon them, and the delivery out of all the roles to every officer, and the receiving of them againe, when they bee written, and the binding and making up of the whole bundles of every terme: and this hee doth as servant to the chiefe Iustice. For the chiefe Iustice is at charge for all the parchment of all the roles.

Clerke of the outlawries (*clericus utlagiarum*) is an officer belonging to the court of Common-plees, being onely the servant or deputie to the Kings Attourney generall, for making out the writs of (*capias utlagatum*) after outlawrie. And the Kings Attornies name is to every one of those writs. And whereas seven pence is paid for the scale of every other writ betwixt partie and partie, there is but a peny paid for the scale of this writ, because

it goeth out at the Kings suite.

Clerke of the sewers, (*clericus suerarum*) is an officer appertaining to the Commissioners of sewers, writing all things that they doe by vertue of their commission, for the which, see *Sewers*: and see the statute, anno 13. Eliz. cap.9.

Clerke Controller of the Kings house, (whereof there be two) is an officer in court, that hath place and seate in the counting house, and authority to allow or disallow the charges & demands of pursuivants or messengers of the Greene-cloth, Purveious, or other like. Hee hath also the oversight and controlling of all defaults, defects, and miscarriages of any the inferiour officers, and to sit in the counting house with the superior officers, viz the Lord Steward, Treasurer, Controulor, and Coferer; either for correcting or bettering things out of order; and also for bringing in countrey provision requisite for the Kings household: and the censure for fayling of cariages, and carts warned and charged for that purpose. This officer you have mentioned, anno 33. H.8. ca.12.

Clerke of the Nihils (*clericus nihilorum*) is an officer in the Exchequer, that maketh a rolle of all such summes, as are nihiled by the Sheriffes upon their extreats of greene waxe, and delivereth

vereth the same into the Lord Treasurers Remembrancer his office, to have execution done upon it for the King.

Clerke of the check, is an officer in Court, so called, because he hath the check and controlement of the yeomen of the Guard, and all other ordinary yeomen and huissiers belonging either to his Majesty, the Queene, or Prince, either giving leave, or allowing their absences or defects in attendance, or diminishing their wages for the same. Hee also nightly by himselfe or deputie, taketh the view of those that are to watch in the Court, and hath the setting of the watch. This officer is mentioned. *anno 33. H. 8. cap. 12.*

Clerke Marshall of the Kings house, seemeth to bee an officer that attendeth the Marshall in his court, and recordeth all his proceedings, *anno 33. Hen. 8. cap. 12.*

Clothe of raze, *anno 27. Ed. 3. stat. 1. cap. 4.*

Closhe, is an unlawfull game forbidden by the statute, *anno 17. Ed. 4. cap. 3.* which is casting of a bowle at nine pinnes of wood, or nine shanke bones of an oxe or horse.

Clove is the two and thirtieth part of a weigh of cheese, i. eight pound, *an. 9. H. 6. cap. 8.*

Cloves (caryophylli) are a spice

knowne by sight to every man. They bee flowers of a tree called (*caryophyllus*) gathered and hardened by the Sunne. Of their nature you may reade in *Gerards Herball, lib. 3. cap. 144.* This is comprised among such spices, as bee to bee garbled, *anno 1. Iacob. cap. 19.*

Cocket (cokettum) is a scale pertaining to the Kings custome house, *Regist. orig. fo. 192. a.* and also a scrow of parchment sealed and delivered by the officers of the custome house to Merchants, as a warrant that their merchandize be customed, *anno 11. H. 6. cap. 16.* which parchment is otherwise called *litera de coketto*, or *litera testimoniales de coketto*, *Regist. ubi supra. fol. 179. a.* So is the word used, *anno 5. & 6. Ed. 6. cap. 14.* and *anno 14. Ed. 3. stat. 1. cap. 21.* This word is also used for a distinction of bread in the statutes of bread and ale, made *anno 51. H. 3.* where you have mention of bread coket, wastell bread, bread of trete, and bread of common wheat.

Coserer of the Kings household, is a principall officer of his Majesties court, next under the Controller, that in the counting house and else where at other times, hath a speciall charge and oversight of other officers of the household, for their good demeanure and cariage in their offices, to all which

which one and other, being either Sergeants, Yeomen, Grooms, Pages, or Children of the kitchen, or any other in any roome of his Majesties servants of household, and payeth their wages. This officer is mentioned, *ann* 39. *Elizab. cap. 7.*

Cogs anno 23. H. 8. cap. 18.

Conisour of a fine, is hee, that passeth or acknowledgeth a fine in lands or tenements to another: *Cognisee* is hee to whom the fine is acknowledged, *West. part. 2. symbol. titule Fines. sect. 2.*

Cognizance, commeth from the French (*cognisance. i. intelligentia, intellectus, notio, cognitio*) with us it is used diversly: some time signifying a badge of a servingmans sleeve, whereby hee is discerned to belong to this or that Noble or Gentleman: some time an acknowledgement of a fine, or confession of a thing done: as *cognoscens latro, Bracton. lib. 3. tract. 2. cap. 3. 20. 32. cognoscere se ad villanum. Idem, lib. 4. tract. 3. cap. 16.* As also to make cognifance of taking a distresse: sometime as an audience or hearing of a matter judicially, as to take cognifance: sometime a power or jurisdiction, as cognifance of plee, is an ability to call a cause or plee out of another court: which no man can doe but the King, except he can shew charters for it. *Manwood, part. 1.*

Of his Forest lawes, *pag. 68.* See the new termes of the law, and the new booke of Entries, *verbo Conusance.*

Cognatione. See Cosenage.

Cognisour. See Conisour.

Cognitionibus mittendis, is a writ to a Iustice, or other, that hath power to take a fine, who having taken knowledgement of a fine, deferreth to certifie it into the court of Common-plees, commanding him to certifie it. *Regist. orig. 68. b.*

Coin (*cuneus, vel cuna*) seemeth to come from the French, (*coin. i. angulus*) which probably verifieth the opinion of such, as doe hold the ancientest sort of coyne to bee cornered and not round. Of this Lawyers substantiue (*cuna*) commeth the Lawyers verbe (*cunare*) i. to coyne. *Cromptons Iustice of peace, fol. 220.*

Coliander seede, or rather *Coriander seede* (*Semen coriandri*) is the seed of an herbe so called, medicinable and wholesome for divers good purposes, which see in *Gerards Herball, lib. 2. ca. 379.* It is numbred among the drugs that be to be garbled, *an. 1. Iacob. cap. 19.*

Collateral (*collateralis*) commeth of the Latine (*lateralis*) i. that which hangeth by the side, *Lateralis viatoria. w. de lega. & fideiuss. tertio l. 102.* seeme to

signifie a budget or capcase to hang by a saddle pomell. *Collateral*, is used in the common law, for that which cometh in, or is adhering of the side : as collateral assurance, is that which is made over and beside the deede it selfe. For example, if a man covenant with another, and enter bond for the performance of his covenant, the bond is termed collateral assurance : because it is externall, and without the nature and essence of the covenant. And *Crompton* in his *Iurisd.* fol. 185. saith, that to bee subiect to the feeding of the Kings Deere, is collateral to the spoyle within the Forest. In like manner may wee say, that the liberty to pitch boothes or standings for a Faire in another mans ground, is collateral to the ground. The private woods of a common person within a Forest, may not be cut without the Kings license. For it is a prerogative collateral to the soyle. *Manwood*, parte. 1. of his Forest lawes, pag. 66. *Collateral warrantie*. See *Warrantie*.

Collation of a benefice (*collatio beneficii*) signifieth properly the bestowing of a benefice by the Bishop, that hath it in his owne gift & patronage : and differeth from institution in this, for that institution into a benefice, is performed by the Bishop at the

motion or presentation of another, who is patron of the same, or hath the patrons right for the time. *Extrade Institutionibus, & De concessione prebendarum, &c.* And yet is collation used for presentation, anno 25. Edw. 3. stat. 6.

Collatione facta uni post mortem alterius, &c. is a writ directed to the Iustices of the common pleas, commanding them to direct their writ to a Bishop, for the admitting of a Clerke in the place of another presented by the King, that during the suit betweene the King and the Bishops Clarke is departed. For iudgement once passed for the Kings clerke, and he dying before he be admitted, the King may bestow his presentation upon another. *Register, orig. fol. 31. b.*

Collatione heremitagii, is a writ whereby the King conferreth the keeping of an Ermitage upon a Clerke. *Register, orig. fol. 303. 308.*

Colour (*color*) signifieth in the common law, a probable plee, but in truth false, and hath this end, to draw the triall of the cause from the Iury to the Iudges. Of this see two apt examples in the Author of the new termes. *Verbo Colour* : who also referreth you to the Doctor and student, fol. 158. &c. See *Broske, tit. Colour in assise, trespass, &c.*

Collusion (*collusio*) is in our common law, a deceitfull agreement or compact betweene two or more, for the one party to bring an action against the other, to some evill purpose; as to defraud a third of his right, &c. See the new tearmes, and *Broke titulo, Collusion*. See also one case of Collusion in the *Register orig.* fol. 179. a.

Combat, (*duellum*) is a french word, signifying as much as (*certamen, decertatio, dimicatio, discrimen, pralium, pugna*) but in our common law, it is taken for a formall triall of a doubtfull cause or quarrell, by the Sword or Bastons of two Champions. Of this you may reade at large, both in divers Civilians, as *Paris de Puteo, de remilitari & duello. Alciat de duello, Hotonam disputatio, feudallium, cap. 42.* and others: as also in our common Lawyers of England, namely *Glanvile, li. 14. ca. 1. Bracton, li. 3. tract. 2. ca. 3. Britton, ca. 22. Hornes mirrour of Iustices, li. 3. ca. des exceptions in fine proxime ante c. Iuramentum duellis. Dyer, fo. 301. nu. 41, & 42.* That this also was anciently the law of the *Lombards*, before they invaded Italy (which was about the yeare of our Lord 571. appeareth by *Sigonius*, in his *Historie De regno Italiae, lib. 2. de Aricaldo rege*: who there reporteth,

that the said King, having put away his wife *Gundeberga*, upon a surmise of Adulterie with *Tato* Duke of *Etruria*, at the private suggestion of *Adalulphus*, a great man among the *Lombards*, and being charged by *Clotharius* the King of France his Ambassadors, of whose bloud she was, that hee had done her wrong: hee answered, that hee had done her no wrong. Whereupon *Ansealdus* one of the Ambassadors replied, That they would easily believe him, if hee would suffer the truth to be tried by combat, betweene some one of the *Queenes* friends, and her accuser, according to the custome of the *Lombards*. And the King yielding unto this, *Adalulphus* was vanquished by one *Pitto*, otherwile called *Charles*, set forth for the *Queenes* Champion, and she restored to her former place and honour.

Comin seed, aliàs, *Cumin seed*, (*Semen cumini*) is a Seed, brought forth by an Hearbe so called, which you may see described in *Gerards Herball, lib. 2. cap. 416.* This is placed among the garbleable drugges, anno 1. *Iacob. cap. 19.*

Comitatu commissio, is a writ or a Commission, whereby the Sheriffe is authorized to take upon him the sway of the County, *Reg. orig. fol. 295. a. & b. and Cokes Reports, li. 3. fo. 72. a.*

Comitatu & castro commisso, is a writ whereby the charge of a countie, together with the keeping of a castle, is committed to the Sheriff, *Reg. orig. fol. 295. a.*

Commandrie (*præceptoris*) was by some mens opinion, a mannor or chiefe mesuage, with which lands or tenements were occupied, belonging to the Priorie of *S. Iohns in Hierusalem*, in *England*: and hee which had the Government of any such Manor or house, was called the Commander, who had nothing to dispose of it, but to the use of the Priorie, taking onely his sustentance thence, according to his degree, and was usually a brother of the same Priorie. Author of the new termes of law, *verbo, Commandrie*. By some other bookes it appeareth, that the chiefe Prior of *S. Iohns*, was a Commander of a Nunnerie, and constituted the Priores of the said Nunnerie, who was under his obedience, and removeable at his will, notwithstanding that shee had Covent, and Common seale, and had her possessions severall, and was wont to lease the land for terme of yeares, *Fulbecke Paralels, fol. 2. a.* Of these commandries also *Petrus Gregorius lib. de beneficiis, cap. 11. num. 11.* hath these words: *Præceptoris dicta commende sacrorum militum, vel in i ordinis hospitalis Sancti Ioannis*

Hierosolymitani, beneficia quidem secundum quid Ecclesiastica dicuntur à Barbatia ad Clement. causam col. 51. de Electione. Tamen non proprie dicuntur ex genere communium beneficiorum, eo quod persona conferentes, & quibus conferuntur, non sunt laice vel ecclesiasticæ, sed tertii ordinis. De hiis beneficiis fit mentio, cap. exhibita de privilegiis. in extravag. com. in cap. Dudum, de decimis. These in many places of our realme are termed by the name of Temples, because they sometime belonged to the Templers. Of these you reade anno 26. *H. 8. cap. 2. & anno 32. ejusd. ca. 24.* And of these the said *Gregorius Tolosanus, l. 15. sui syntagmatis, cap. 34.* hath these words: *Monimus superiori capite, crescente numero peregrinorum, juxta Templum Hierosolymitanum Xenodochium edificatum, tit. Divi Iohannis, quo exciperentur peregrini, quos cœnobîa capere non possent. Huius ergo ministerio quoq; viri pii nobiles se devoverunt, qui & prægrinos tutarentur, & à latronum seu Agarenorum incursum defenderent. Horum professio est votum solenne paupertatis, & abdicationis propriorum, castitatis, & obedientie. Proinde propter primum votum nihil proprii habent, vel habere debent, sed accipiunt annonâ, quàm diu vivunt, vel præceptorias (quas vocant Commanderies) administrant, quàm diu eas possident, & optione mutant,*
vel

vel ex magistri licentia permittant reddituri morientes quæ apud eos reperientur, societati. Of these *Corasius* in his paraphrase *Ad sacerdot. parte prim. cap. 3.* saith thus: *Preceptorie Rhodienses, cum non nisi fratribus Hierosolymitanis, atq; ita personis ecclesiasticis conferantur, beneficiis ecclesiasticis annumerari meriti debent.*

Commandement; (præceptum) is used diversely in the common law: sometime for the Commandement of the King, when upon his meere motion, and from his owne mouth, hee casteth any man into prison, *Stamf. pl. cor. fol. 72.* or of the Iustices. And this commandement of the Iustices, is either absolute or ordinary: absolute, as when upon their owne authority in their wisdom and discretion, they commit a man to prison, for a punishment: ordinary is, when they commit one rather for safe custody then punishment. And a man committed upon an ordinary commandement, is replevisable, *pl. cor. fo. 73.* Commandement is againe used for the offence of him, that willet another man to transgresse the law, or to doe any such thing, as is contrary to the law; as Murther, Theft, or such like, *Bract. li. 3. tra. 2. ca. 19.* And this the Civillians call (*mandatum*) *Angelus de maleficiis.*

Commens (communis) comeneth

from the french (*commun. i. quod ad omnes pertinet*) and signifieth in our common law, that soile or water, whereof the use is common to this or that towne, or Lordship; as Common of Pasture (*communis pastura*) *Bract. lib. 4. ca. 19. & 40.* Common of fishing, *communis piscaria. Idem lib. 2. ca. 34.* Common of turbary. 1. of digging Turves (*communis turbarie*) *Idem. l. 4 ca. 41.* common of estovers (*communis estoveriorum*) *Kitchin fo. 94.* *Commens*, is divided into *Commens* in grosse, *Commens* appendant, *Commens* appertinent, and *Commens* per cause de vicinage. i. by reason of neighbourhood. *Commens* in grosse, is a liberty to have *Commens* alone (that is) without any land or tenement, in another mans land, to himselfe for life, or to him and his heires. And it is commonly passed by deed of grant or specialty, *Old nat. br. fol. 31. & 37.* *Commens* appendant, and Common appertinent, be in a manner confounded: as appeareth by *Fitzh. nat. br. fol. 180.* and be defined to be a liberty of Common, appertaining to, or depending of such or such a Free-hold. Onely *Kitchin fol. 94.* seemeth to make this difference, that hee which hath *Commens* appertinent, hath it without limitation of this or that kind of Beasts: But that is controlled by *Dyer, fo. 70. b.*

nu. 19. He that hath *Commen* appendant, hath it but for Beasts commenable, as Horses, Oxen, Kine, and Sheepe, being accounted fittest for the Plowman: and not of Goates, Geese, and Hogs. Whereunto the author of the new tearmes of law addeth another difference: which is, that Common appertinent may be severed from the land, whereunto it is appertinent, but not Common appendant. The originall of Common appendant *S. Ed. Coke, li. 4. fo. 37.* thus expresseth: Common appendant, by the ancient Law, had beginning in this manner, when a Lord infeoffed another in erable lands, to hold of him in Socage (*id. est, per servitium soca*) as all tenure in the beginning (according to *Littleton*) was: the Feoffee, to maintain the service of his Plow, had Common in the wastes of his Lord, for his necessary Beasts to gaine and compasse his land: and that for two causes; one, for that, as then it was taken, it was (*tacite*) implied in the Feoffment, by reason the Feoffee could not gaine or compasse his land without cattell, and cattell could not be sustained without pasture, and so by consequent; the feoffee had (as a thing necessary and incident) Common in the wastes and land of the Lord. And this appeareth by ancient bookes

tempore. Ed. 1. tit. Common 24. & 17. Ed. 2. tit. Common. 23. & 20. Ed. 3. tit. Admesurement. 8. & 18. Ed. 3. and by the rehearsall of the statute of *Merton, cap. 4.* The second reason was for maintenance, and advancement of tillage, which is much regarded and favoured in the Law. Thus far *S. Edward.*

Commen per cause de vicinage, is a libertie, that the tenents of one Lord in one towne, have to Common with the tenents of another Lord in another town: which kind of Common they that challenge, may not put their cattell into the Common of the other towne: For then they be distreinable. But turning them into their owne fields, if they strey into the neighbours *Commen*, they must be suffered. See the tearmes of law. Common of Pasture, the Civilians call *Ius compascendi, cum sc: plures ex municipibus qui diversa pradia possidebant, saltum communem, ut ius compascendi haberent mercarentur. l. penul. c. si servit, vendicetur.* It is also called *Ius compascuum. Ibidem.*

Commendam (*commenda*) is a Benefice, that being void, is commended to the charge and care of some sufficient Clerke, to be supplied, untill it may be conveniently provided of a Pastor. And that this was the true originall of this practise, you may
reade

read at large in *Dnaenus de sacris ecclesie ministeriis & beneficiis* li. 5. ca. 7. And whereas the glosse, in verbo commendare, in ca. Nemo deinceps: de electione, in sexto: defineth commendam esse ecclesie custodiam alicui commissam: Iohannes Andreas therupon saith thus: huic definitioni necessario hac adicienda putem: in tempus gratia evidentis necessitatis & utilitatis. Idg, docuit textus in dicto capite. Nemo. Corrasius in his paraphrase de sacerdotiorum materia, parte prima, ca. 6. nu. 3. & seqq. thus describeth the matter: In commendam conceditur beneficium, cum Romanus Pontifex Legatus, aut Episcopus (Neq; enim inferioribus, qui ex privilegio aut alio jure spiritali conferunt, concessum est, ca. cum omnes basilicae, 16. quest. 7.) ecclesie vacantis custodiam alicui committit, administratorem generalem ejus templi cum constituens, ca. nemo, de electio in sexto. Commendare enim aliud est nihil quam deponere. l. publicus. π. depositi. l. commendare. π. de verb. signif. Hoc autem, ad tempus sex mensium, & pro evidenti necessitate aut utilitate ecclesie lex permittit, (d. ca. Nemo.) Quare, commendatarius qui ecclesie vacantis & fructuum, ad tempus tantaxat custodiam habet; nec tenere beneficium, jusve habere in beneficio, aut canonicum titulum censebitur: ut nec depositarius in re deposita, whereof also Petrus Gregorius de benefi-

cis, ca. 10. nu. 13. thus writeth. In hac quarta divisione, potest addi tertium genus beneficii, quod citra prescriptionem qualitatis a persona alterius qualitatis quam beneficium exigat natura, possidetur, sed sine prejudicio nature beneficii, & per dispensationem, eo commendato olim ad tempus certum certae personae, hodie ut plerumq; quam diu commendatarius vixerit. Vocant hoc beneficium commendatum commendam: ut si regulare beneficium a Summo Pontifice conferatur, nomine commendae, seculari. Nam ideo non mutatur beneficii natura: nec fit ideoulare, &c. And a little after, Interim annotabimus duplici de causa fieri commendam ecclesie, nempe vel in utilitatem ecclesie, vel commendatarii. In primo commendae titulum non dat beneficii commendatario, et dicitur potius custodia quae revocari potest: quod repugnat nature beneficii, quod est perpetuum. In secundo autem casu beneficium censeatur in utilitatem commendatarii commenda facta, quam possidere potest quam diu vixerit, &c. whom you may also read, c. 2 l. 13.

Commissarie (commissarius) is a title of ecclesiasticall jurisdiction, appertaining to such a one as exerciseth spirituall jurisdiction (at the least, so farre as his commission permitteth him) in places of the Diocess so farre distant from the chiefe Citie, as the Chancelour cannot call the subjects

jects to the Bishops principall consistory, without their too great molestation. This Commissary is of the Canonists termed *commissarius* or *officialis foraneus*. *Lyndwoods provin. cap. 1. de accusatio, verbo. Mandatum archiepiscopi, in glos.* and is ordained to this especiall end, that hee supply the Bishops jurisdiction and office in the out places of the Dioces, or else in such parishes as be peculiar to the Bishop, and exempted from the jurisdiction of the Archdeacon. For where either by prescription or composition, there bee Archdeacons that have jurisdiction within their archdeaconries, as in most places they have, there this commissarie is but superfluous, and most commonly, doth rather vex and disturbe the country for his lucre, then of conscience seeke to redresse the lives of offenders. And therefore the Bishop taking prebend money of his Archdeacons yearly *pro exteriori jurisdictione*, as it is ordinarily called, doth by superencroaching their circuit with a Commissarie, not onely wrong Archdeacons, but the poorer sort of subjects much more, as common practise daily teacheth to their great woe.

Commission (commissio) is for the most part, in the understanding of the common law, as much as (*delegatio*) with the Civilians.

(See *Brooke, titulo commissio*) and is taken for the warrant or letters patents, that all men exercising jurisdiction either ordinarie or extraordinarie, have for their power to heare or determine any cause or action. Of these see divers in the table of the *Register originall, verbo. Commissio*; yet this word sometime is extended farther, then to matters of judgement: as the Commission of Purveyours or takers, *anno 11. H. 4. cap. 28.* But with this epitheton (*high*) it is most notoriously used for the honorable commission Court, instituted and founded upon the statute, *1. Eliz. cap. 1.* for the ordering and reformation of all offences, in any thing appertaining to the jurisdiction Ecclesiasticall: but especially such as are of higher nature, or at the least, require greater punishment, then ordinary iurisdiction can afford. For the world being growne to that loosenesse, as not to esteeme the censure of excommunication, necessity calleth for those censures of fines to the Prince, and imprisonment, which doe affect men more neerely.

Commission of rebellion (Commissio rebellionis) is otherwise called a writ of rebellion (*breve rebellionis*) and it hath use, when a man after proclamation made by the Sheriffe upon an order
of

of the Chauncerie, or court of Starre-chamber, under penalty of his allegiance, to present himselfe to the court by a certaine day, appeareth not. And this Commission is directed by way of command to certaine persons, to this end, that they, or three, two, or one of them, doe apprehend, or cause to be apprehended, the party as a rebell and contemner of the Kings lawes, wheresoever they find him within the Kingdome, and bring him, or cause him to be brought to the Court, upon a day therein assigned. The true Copie of this Commission or Writ, you have in *Cromptons* divers jurisdictions. *Court de Starre Chamber*: as also in *West. tractat.* touching proceedings in Chancerie, *Seccio 24.*

Commissioner (commissionarius) is hee that hath commission, as Letters Patents, or other lawfull warrant, to execute any publicke office: as Commissioners of the office of Fines and Licenses. *West. parte 2. symbol. titulo Fines. sect. 106.* Commissioners in *Eyre*, anno 3. *Ed. 1. cap. 26.* with infinite such like.

Committee, is hee to whom the consideration or ordering of any matter is referred, either by some Court, or consent of parties, to whom it belongeth. As in Parliament, a Bill being read, is

either consented unto, and passed, or denied, or neither of both, but referred to the consideration of some certaine men, appointed by the house, farther to examine it: who thereupon are called *Committees*. Committee of the King, *West. par. 2. symb. titulo Chancerie. sect. 144.* This word seemeth to be something strangely used in *Kirchin, fo. 160.* where the widow of the Kings tenent being dead, is called the Committee of the King, that is, one committed by the ancient law of the land, to the Kings care and protection.

Common bench (bancus communis) is used some time for the court of Common ples, anno 2. *Ed. 3. ca. 11.* So called, as *M. Camden* saith in his *Britannia. pa. 113. quia communia placita inter subditos ex jure nostro, quod commune vocant, in hoc disceptantur*; that is, the Ples or Controversies tryed betweene Common persons.

Common fine (finis communis) of this, *Fleta* hath these words: *Quibus expeditis* (speaking of the businesse finished by Iustices in *Eyre*) *consueverunt Iusticiarii imponere villatis, juratoribus, hundredis, & toti comitatui cancelamentum, & omnes separatim amerciare: quod videtur voluntarium, cum de perjurio & cōcelamento non fuerint convicti, sed potius dispensandum*

esset cum eis quod animas in statera posuerint pro pacis conservatione. li. 1. cap. 48. §. Quibus. And a little following, §. Et provisum, he hath these words: *Et provisum est, quod communes misericordie vel fines committarum amerciatorum in finibus itinerum Iusticiariorum ante recessum ipsorum Iusticiariorum per sacramenta militum, & aliorum proborum hominum de committatu eodem, assidentur super eos qui contribuere debent: unde particule Iusticiariis liberentur, ut cum aliis extractis suis ad Scaccarium liberare valeant.* These last words of his have relation to the statute, *Westm. pr. cap. 18.* which reade. See *Fine.*

Common Plees (*communia placita*) is the Kings Court now held in *Westminster Hall*, but in ancient time moveable, as appeareth by the Statute called *Magna charta. cap. 11.* as also *an. 2. Ed. 3. cap. 11.* and *Pupilla oculi, parte 5. cap. 22.* But *M. Gwin* in the Preface to his Readings saith, that untill the time that *Henry* the third granted the great Charter, there were but two Courts in all, called the Kings Courts: whereof one was the Exchequer, the other, the Kings Bench, which was then called (*Curia Domini regis*) and (*Aula regia*) because it followed the Court or King: and that upon the grant of that Char-

ter, the court of Common Plees was erected, and setled in one place certaine: viz. at *Westminster*. And because this Court was setled at *Westminster*, wherefoever the King lay: thereupon *M. Gwin, ubi supra*, saith, that after that, all the writs ran, *Quod sit coram Iusticiariis meis apud Westmonasterium*: whereas before the party was commanded by them, to appeare *coram me vel Iusticiariis meis*, simply without addition of place, as he well observeth out of *Glanvile* and *Bracton*, the one writing in *Henry* the seconds time, before this Court was erected, the other in the latter end of *Henry* the thirds time, who erected this Court. All Civill causes both reall and personall are, or were in former times, tryed in this Court, according to the strict law of the Realme: and by *Fortescue, cap. 50.* it seemeth to have beene the onely Court for reall causes. The chiefe Iudge thereof is called the Lord chiefe Iustice of the Common Plees, accompanied with 3 or 4 Assistants or Associates, which are created by Letters Patents from the King, and (as it were) enstalled or placed upon the Bench, by the Lord Chancellor, and Lord chiefe Iustice of the Court, as appeareth by *Fortescue, cap. 51.* who expresseth all the circumstances of this admission. The rest of the Officers,

cers belonging to this Court, are these: The *Custos breuium*, three Protonotaries, otherwise called Prenotaries, Chirographer, Filazers 14. Exigenters 4. Clerke of the Warrants, Clerke of the Inuries, or jurata writs, Clerke of the Treasurie, Clerk of the Kings Silver, Clerk of the Essoines, Clerk of the Outlawries. Whose distinct functions look in their places. See *Common Bench*.

Common day in plee of land. an. 13. R. 2. stat. 1. cap. 17. signifieth an ordinary day in the Court as *Octavis Michaelis, quindena pasce, &c.* as you may see in the statute made, *anno 51. H. 3.* concerning generall dayes in the Bench.

Common house of Parliament, is used for the nether house: because the Commons of the realme, that is, the Knights of the Shires and Burgeses, possesse that house, *Crompton, jurisd 9.*

Commotes, seemeth to be compounded of the Preposition (*con*) and (*mot. i. dictio, verbum*) and signifieth in Wales a part of a Shire, as an Hundred, *an. 28. H. 8. ca. 3.* It is written *Commoithes. an. 4. H. 4. ca. 17.* and is used for a gathering made upon the people (as it seemeth) of this or that Hundred, by Welsh Minstrels.

Common law, (*communis lex*) hath three divers significations, which see in the author of new

termes of law, *verb. Common law.*

Communi custodia, is a writ that lyeth for that Lord, whose tenant holding by Knights service, dyeth, and leaveth his eldest Son under age, against a stranger that entreth the land, and obtaineth the ward of the body. It may seeme to take the name from the common custome or right in this case: which is, that the Lord have the wardship of his tenant, untill his full age, or because it is common for the recovery both of land and tenant, as appeareth by the forme thereof. *Old. nat. br. fol. 89.* See also the *Register orig. fol. 161. a.*

Communi placito non tenendo in scaccario, is a writ directed to the Treasurer and Barons of the Exchequer, forbidding them to hold Plee betweene two common persons in that Court, neither of them belonging toward the said Court, *Register orig. fol. 187. b.*

Companion of the Garter, is one of the Knights of that most noble and honourable order, *an. 24. H. 8. ca. 13.* See *Garter*.

Compromis (compromissum) is a mutuall promise of two or more parties at difference, to referre the ending of their Controversies, to the arbitrimt and equitie of one or more Arbitrators. *West. defineth it thus, parte 2. Symbol. titulo Compromise sect.*

pri. A compromise or submission (*arbitrium, compromissum, submissio*) is the facultie or power of pronouncing sentence betweene persons at controversie, given to Arbitratours by the parties mutuall private consent, without publike authority.

Computo, is a writ so called of the effect: because it compelleth a Bailiffe, Chamberlaine, or Receiver to yield his account, *Old nat. br. fo. 58.* It is founded upon the statute of *Westm. 2. ca. 2. anno 13. Ed. 1.* which for your better understanding you may reade. And it lyeth also for executours of executours, *anno 15. Ed. 3. statut. de provis. victuall. cap. 5.* Thirdly, against the garden in Socage for waste made in the minority of the heire, *Marlb. ca. 17.* And see farther in what other cases it lyeth, *Register orig. fol. 135. Old nat. br. ubi supra. & Fitzh. nat. br. fol. 116.*

Concealers, be such as find out concealed lands, that is, such lands as are privily kept from the King by common persons, having nothing to shew for them, *anno 39. Eliz. cap. 22.* They be so called, à *concelando, as mons a movendo. per antiphrasin.*

Concord (*concordia*) is in the common law, by a peculiar signification, defined to be the verie agreement betweene parties, that intend the levying of a Fine

of lands one to the other, how and in what manner the land shal passe. For in the forme thereof many things are to be considered, *West. parte 2. Symbol. titulo. Fines and concords, Sect. 30.* whom reade at large. Concord is also an agreement made upon any trespassse committed between two or more: and is divided into a Concord executory, and a Concord executed. See *Plowden, casu Reniger, & Fogassa. fo. 5. & 6.* where it appeareth by some opinion, that the one bindeth not as being imperfect: the other absolute, and tieth the parties: and yet by some other opinion in the same case, it is affirmed that agreements executory bee perfect, and doe no lesse bind, then agreements executed, *fol. 8. b.*

Concubinage (*concubinatus*) is an exception against her, that sueth for her Dower, whereby it is alleaged, that shee was not a wife lawfully married to the party, in whose lands shee seeketh to be endowed, but his concubine, *Britton, ca. 107. Bract. li. 4. tract. 6. ca. 8.*

Condition (*conditio*) is a rate, manner, or law, annexed to mens acts, staying or suspending the same, and making them uncertaine, whether they shall take effect or no, *West. parte 1. symb. li. 2. Sect. 156.* In a lease there may bee

be two sorts of conditions : condition collaterall, or condition annexed to the rent. Sir *Edward Coke, lib. 3. Pennants case. fol. 64.* Collaterall condition is that, which is annexed to any collaterall act : as that the Lessee shall not goe to *Rome, ib. fol. 65.* Condition is also divided, into condition in deed or fact, and condition in law : which otherwise may be termed, condition expressed, and condition implied. *Perkins, Conditions. 722.* These, and other like divisions of conditions, you may reade in the Author of the new Termes of law, *verbo. Condition.* And in *Littleton, lib. 3. cap. 5.*

Conders, may seeme to proceed from the French (*conduire. i. deducere, gubarnare*) they be such as stand upon high places neare the Sea coast, at the time of Herring fishing, to make signes with Boughes, &c. in their hand unto the Fishers, which way the shole of Herrings passeth. For that may better appeare to such as stand upon some high cliffe on the shore, by a kind of blew colour, that the said Fish causeth in the water, then to those that be in the Ships. These be otherwise called huers, by likelihood of the French (*huer. i. exclamare*) and balkers : as appeareth by the statute, *anno 1. Jacob cap. 23.*

Cone & key. Bracton, lib. 2.

cap. 37. num. 3. Looke *Cover* and *Key*.

Confirmation (confirmatio) is a strengthening of an estate formerly had, and yet voidable, though not presently void. For example ; a Bishop granteth his Chancelorship by Patent, for the terme of the Patentee his life : this is no void grant, but voidable by the Bishops death, except it be strengthened by the confirmation of the Deane and chapter. See more of this, in *Vest. parte prim. symb. lib. 2. sect. 500.* and *Fitzh. nat. br. fol. 169. B. 226. H. 271. D. 163. G. and Littleton, lib. 3. cap. 9.*

Confiscate (confiscatus) may be said to come either from the Latine (*confiscare*) or the French (*confisquer. i. in publicum addicere.*) All these words are drawne from (*fiscus*) which originally signifieth a Hamper, Pannier, Basket, or Freile : but Metonymicallie the Emperours Treasure : because it was anciently kept in such Hampers, &c. And though our King keepe not his Treasure in such things : yet as the *Romans* said, that such goods as were forfeited to the Emperours Treasury for any offence, were *bona confiscata* : so doe wee those that are forfeited to our Kings Exchequer. See more of these goods confiscate, in *Stawns. pl. cor. lib. 3. cap. 24.*

Conge d'eslire (*venia elegendi*) is very French, and signifieth in our common law, the Kings Permission royall, to a Deane and Chapter in time of vacation, to chuse a Bishop: or to an Abbey or Priorie of his owne foundation, to chuse their Abbot or Prior, *Fitzb. nat. br. fol. 169. B. 170: B. C. &c.* Touching this matter, *M. Gwin* in the Preface to his Readings saith, that the King of *England*, as soveraigne Patron of all Arch-bishopricks, Bishopricks, and other Ecclesiasticall Benefices, had of ancient time, free appointment of all Ecclesiasticall Dignities, whensoever they chanced to be voide: investing them first (*per baculum & annulum*) and afterward by his Letters Patents: and that in processe of time he made the Election over to others, under certaine formes and conditions: as namely, that they should at every vacation before they chuse, demand of the King (*conge d'eslire*) that is, License to proceed to Election, and then after the Election, to crave his royall assent, &c. And farther hee affirmeth by good prooffe out of common Law Bookes, that King *John* was the first that granted this, and that it was afterward confirmed by *VWestm. pri. ca. 1.* which statute was made, *anno 3. Ed. pri.* and againe by the statute,

(*Articuli cleri*) *ca. 2.* which was ordained, *anno 25. Ed. 3. statuto tertio.*

Congeable, commeth of the French (*conge. i. venia*) It signifieth in our common law, as much as lawfull or lawfully done; as the entrie of the Disceisee is *Congeable*, *Littleton, fol. 91. in meo.*

Conisance. See *Cognizance.*

Conizour, alias *cognizour* (*recognitor*) commeth of the French (*cognostre. i. cognoscere, cernere*) and is used in the passing of Fines for him that doth acknowledge the Fine; and the Conizee is he, to whom it is acknowledged, *VWest. parte 1. symbol 1. 2. sect. 49. & parte 2. titulo. Fines sectio. 114.* See *Recognizour.*

Conjuration (*conjuratio*) is the very French word drawne from the Latine; which, as it is compounded of (*con & juro*) so it signifieth, a compact or plot, made by men combining themselves together by oath or promise, to doe some publicke harme. But in our common law, it is especially used for such as have Personall conference with the devill or evill Spirit, to know any secret, or to effect any purpose, *anno 5. Elizab. cap. 16.* And the difference that I have observed (how truly, let those judge that be better skilled in these matters) betweene conjuration and witchcraft, is because
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the one seemeth, by prayers and invocation of Gods powerfull names, to compell the devill, to say or doe what he commandeth him: the other dealeth rather by a friendly and voluntarie conference or agreement betweene him or her and the devill or familiar, to have her or his desires and turnes served in lieu of blood, or other gift offered unto him, especially of his or her soule. And both these differ from inchawntments or forceries, because they are personall conferences with the Devill, as is said: but these are but medicines and ceremoniall formes of words (called commonly charmes) without apparition.

Consanguineo, is a writ, for the which See *Avo*: and See the Register orig. *De avo, proavo, & consanguineo* fo. 226.a.

Conservatour of the truce and safe conduits (*conservator induciarum & salvozum regis conductuum*) was an officer appointed in every port of the Sea, vnder the Kings letters patents, and had 40. pound for his yearely stpend, at the least. His charge was to enquire of all offences done against the Kings truce and safe conduits, upon the maine Sea out of the countries, and out of the franchises of the Cinque ports of the King, as the Admirals of Custome were wont

and such other things as are declared. *anno 2. H. 5. cap. 6.* Touching this matter you may read another statute. *anno 4. H. 5. cap. 7.*

Conservatour of the Peace (*conservator vel custos pacis*) is he that hath an especiall charge by vertue of his office, to see the kings peace kept. which peace learned *M. Lamberd* defineth, in effect, to be a withholding or abstinence from that injurious force and violence, which boysterous and unruly persons are in their natures prone to use toward others, were they not restrained by lawes and feare of punishment. Of these conservators he farther saith thus: that before the time of *K. Edward* the third, who first erected Iustices of peace, there were sundrie persons, that by the common lawe had interest in keeping of the peace. Of those some had that charge as incident to their offices, which they did beare, and so included within the same, that they were neuer the lesse called by the name of their office onely: some others had it simply as of it selfe, and were thereof named *custodes pacis*, wardens or conservators of the peace. The former and latter sort hee againe subdivideth. Which read in his *eirenarcha. li. 1. cap. 3.*

Consideration, (*consideratio*) is that with us, which the Grecians called *συναλλαγμα*: that is, the materiall cause of a contract, without the which, no contract bindeth. This consideration is either expressed, as if a man bargain to give 20 Shillings for a Horse: or else implied, as when the law it selfe inforceth a consideration; as if a man come into a common Inne, and there staying some time, taking both meat and lodging, or either for himselfe and his Horse: the law presumeth, that hee intendeth to pay for both, though nothing be farther covenanted betweene him and his Host: and therefore if he discharge not the house, the Host may stay his Horse, *Fulb. paret. tract. Contracts. fol. 6. a. b.*

Consistorie (*consistorium*) is a word borrowed of the Italians, or rather Lombards, signifying as much as (*pratorium*) or *tribunal*. *vocab. utriusq. jur.* It is used for the place of iustice in the Court Christian.

Convocation house (*domus convocationis*) is the house, wherein the whole Clergie is assembled, for consultation upon matters Ecclesiasticall in time of Parliament. And as the house of Parliament, so this consisteth of two distinct houses: one called the higher Convocation house, where the Arch-bishops and Bishops sit

severally by themselves: the other, the lower Convocation house, where all the rest of the Clergie are bestowed. See *Prolocutor*.

Consuance. See *Cognisance*.

Conuzour. See *Cognizour*.

Consolidation (*consolidatio*) is used for the combining, and uniting of two Benefices in one. *Broke titulo. Union*. This word is taken from the Civill law, where it signifieth properly an uniting of the possession, occupation, or profit with the propertie. For example, if a man have by Legacie *usum fructum fundi*, and afterward buy the propertie or Fee-simple (as wee call it) of the heire, *hoc casu consolidatio fieri dicitur. §. 3. De usu fructu. in Institut.* See *Union*, and *Unitie of possession*.

Conspiracie (*conspiratio*) though both in Latine and French, it be used for an agreement of men, to doe any thing, either good or bad: yet in our Lawyers bookes, it is alway taken in the evill part. It is defined, *anno 34. Ed. pri. stat. 2.* to be an agreement of such as doe confeder or bind themselves by oath, covenant, or other alliance, that every of them shall beare and ayde the other, falsly and maliciously to indite, or falsly to move or maintaine Plees, and also such as cause children within age, to appeale men

of felonie, whereby they are imprisoned, and sore grieved: and such as retaine men in the countries with liveries or feeſe, to maintaine their malicious enterpriſes. And this extendeth as well to the takers, as to the givers. And Stewards and Bayliffes of great Lords, which by their ſegnorie, office, or power, undertake to beare or maintaine quarrels, ples, or debates that concerne other parties, then ſuch as touch the eſtate of their Lords, or themſelves, *anno 4. Ed. 3. cap. 11. an. 3. H. 7. ca. 13.* and of this ſee more, *ann. 1. H. 5. c. 3. & an. 18. H. 6. c. 12.* as alſo in the new booke of Entries. *ver. Conſpiracy.*

Conſpiracie, in the places before mentioned, is taken more generally, and is confounded with maintenance and champertie. But in a more ſpeciall ſignification, it is taken for a confederacie of two at the leaſt, falſely to endict one, or to procure one to be endicted of felony. And the puniſhment of conſpiracie, vpon an endictment of felonie, at the Kings ſuit, is that the party attainted, leeſe his franke lawe, to the intent that hee bee not empaneled vpon Iuries or Aſſiſes, or ſuch like employments, for the teſtifying of truth. And if hee have to doe in the Kings court, that hee make his Attorney: and that his

lands, goods, and chatels be ſeyſed into the Kings hands, his lands eſtreaped (if hee finde no better favour) his trees rased, and his body committed to priſon. *27. lib. aſſiſ. 59. Cromptons Juſtice of Peace, fol. 156. b.* This is called vilanous judgement or puniſhment. See *Vilanous Judgement.* But if the party grieved ſiew vpon the Writ of Conſpiracy, then ſee. *Fitz nat. br. f. 114. D. 115. I.* Conſpiracie may be alſo in caſes of leſſe weight. *Idem fol. 116. A. & c.* See *Franke Law.*

Conſpratione, is a Writ that lyeth againſt conſpiratours. *Fitz. nat. br. fo. 114. d. Cromptons inriſd. fo. 209.* See alſo the *Regiſt. fo. 134.*

Conſtable (*conſtabularius vel conſtabulis*) is a Saxon word, compounded of (*cunning* or *cynge*) and (*ſtaple*) which doe ſignifie the ſtay and hold of the King. *Lamb. duties of Conſtables. nu. 4.* But I have heard it made heretofore of theſe two wordes, (*comes ſtabuli*) which ſeemeth to mee the more probable, becauſe we have this Officer from France as moſt others, and not from the Saxons. And *Tilius* in his commentaries (*de rebus Gallicis*) li. 2. ca. de conſtabili, hath the ſame etymologie, giving the reaſon thereof, (*quia præſt ſtabulo. i. equili regis*) which office is auuncient heere in England, and mentioned by *Bracton*, ſeeming

to answere him that was called (*tribunus celerum*) vnder the first kings of Rome, and (*Magister equitum*) afterward. The Germans that inhabite the side of the river *Rhene*, note him by this title (*die constoster*) and in counterfeit latine (*constofelerus*) and in oulder time (*constafolarius*) that the Romans were wont to tearme (*assessore iudicii*.) And (as *Spiegelius* in his lexicon noteth, derive the word) a *stafola comitis*, i. *gradu Iudicis fiscalis*. For *staffel* in their language (as hee saith) signifieth a grees or steppe of a paire of staires. And thereupon (*stafelstein*) being a word vsed in their very auncient writings, signifieth as much as *Prætorium*. But a man many times may shew in this kinde more curiositie then discretion: as perhaps some will judge mee heere to haue done. And therefore enough of this. This word is diversly vsed in our common law: first for the constable of England, who is also called Marshall. *Stamm. pl. cor. fol. 65.* of whose great dignitie and authoritie a man may finde many arguments and signes both in the statutes and chronicles of this Realme. His sway consisteth in the care of the common peace of the land, in deedes of armes, and matters of wars. *Lamb. ubi supra* with whom agreeth the *statut.*

anno 13. R. 2. ca. 2. statut. 1. Smith de Repub. Anglo. li. 2. ca. 25. Of this officer or magistrate *M. Gwin* in the peface to his reading saith to this effect: The court of the constable and marshiall determineth contracts touching deeds of armes out of the Realme, and handleth things concerning wars within the Realme, as combats, blasons of armory, &c. But it may not deale with battell in appeales, nor generally with any other thing that may bee tryed by the lawe of the Land. And reade *Fortescue ca. 32.* This office was belonging heeretofore to the Lords of certaine manors, *iure feudi*: and why it is discontinued, see *Dyer fol. 258. nu. 39.* Out of this high magistracie (saith *M. Lamberd*) were drawne these lower constables, which wee call constables of hundreds and franchises, and first ordained by the statute of *Winchester, anno 13. Ed. 1.* which appointeth for the conservation of the peace, and view of armour, two constables in every hundred and franchise, which in latine are called *constabularii capitales*. And these bee nowe a daies called high constables: because continuance of time, and increase both of people and offenses, hath againe vnder these made others in every towne called petit constables, in latine (*subconstabularios*) which are

are of like nature but of inferior authoritie to the other, as you may read at large in that learned mans treatise before named. Of these also reade *S. Thomas Smith lib. 2. cap. 22.* Beside these there bee officers of particular places called by this name; as constable of the Tower. *Stannf. pl. cor. fol. 152. & anno. 1. H. 4. cap. 13. Stomes annals pa. 812. iurisdic. fol. 132.* constable of the Exchequer. *anno 51. H. 3. statute 5.* Constable of Dover Castel. *Camden Britan pa. 239. Fitzh. nat. br. fo. 240.* otherwise called castellan. *Westm. i. cap. 7. anno 3. Ed. 1.* But these be *castellani* properly. as *M. Lamberd.* noteth, though conioyned in name with the others. See the statute anno 32. *H. 8. ca. 38. M. Manwood parte. prima. cap. 13.* of his forest lawes maketh mention of a constable of the forest.

Consuetudinibus & servitiis, is a writ of right close, which lyeth against the tenant, that deforceth his Lord of the rent or service due vnto him. Of this see more at large the *Old nat. br. fol. 77. Fitzh. eodem. fol. 151.* and the *Register orig. fo. 159.*

Consultation, (consultatio) is a Writ whereby a cause, beeing formerly removed by prohibition from the ecclesiastiall court, or court Christian, to the Kings court, is returned thither a-

gaine. For the Iudges of the Kings court, if vpon comparing the libell with the suggestion of the party, they doe find the suggestion false or not proved, and therefore the cause to be wrongfully called from the court christian; then upon this consultation or deliberation, they decree it to bee returned againe, whereupon the writ in this case obtained, is called a consultation. Of this you may reade the *Register orig. fol. 44. 45. & c. vsq. fol. 58. Old nat. br. fol. 32. & Fitz. eodem fol. 50.*

Contentement, (contentementum) seemeth to bee the free hould land, which lyeth to a mans tenement or dwelling house, that is in his owne occupation. For in *Magna charta cap. 14.* you have these words: A free man shall not be amerced for a small fault, but after the quantity of the fault: and for a great fault, after the manner thereof, saving to him his contentement or free hould. And a Merchant likewise shall he amerced saving to him his merchandies: and any other villaine then owes, shall bee amerced saving his waynage, if he take him to our mercy. And *Bracton. lib. 3. tracta. 2. cap. 1. nn. 3.* hath these words: & sciendum, quod miles & liber homo non amerciabitur, nisi secundum modum delicti, secundum quod delictum

fuit magnum vel paruum, & salvo contememento suo: mercator vero non nisi salva merchandiza sua, & villanus nisi salvo Waniagio suo: which mercy seemeth to have beene learned from the civile lawe: whereby (*executio non potest fieri in bonos, aratra, aliave instrumenta rusticorum. l. executores & Authen. Agricultores. Co: quae res pign. obliga. nec in stipendia, arma & equos militum. l. stipendia. Co. de executio. rei iudica. & ibi doctores. nec in libros scholarium. gloss. in l. Nepos Proculo. verbo. dignitate. & de verbo. significa. Quae tamen rusticorum, milium & scholarium privilegia circa executionem vera esse, & eatenus obtinere intelligenda sunt, quatenus alia bona habent. Iohan. Eimericus in processu iudiciario: cap. de Executione senten. 79. num. 11.*

Continuance, seemeth to be used in the common law, as *pro rogatio* is in the civile lawe. For example: Continuance vntill the next assise. *Fitz. nat. br. fol. 154. F. and 244. D.* in both which places it is saide, that if a record in the treasurie be alledged by the one partie, and denyed by the other: a (*certiorari*) shall be sued to the Treasurer, and the chamberlaine of the Exchequer: who, if they certifie not in the Chauncerie, that such a record is there, or that it is likely to be in the Tower: the King

shall send to the Iustices repeating the (*certificate*) and wil them to continue the assise. In this signification it is likewise used by *Kirchin. fol. 201. & 199. and also anno 11. H. 6. cap. 4.*

Continuall claime (*continuum clameum*) is a claime made from time to time. Within every yeare and day, to Land or other thing, which in some respect wee cannot attaine without daunger. For example, if I bee disseised of land, into which, though I have right unto it, I dare not enter for feare of beating: it behooveth me to hold on my right of entry to the best opportunity of me and mine heyre, by approaching as neer it as I can, once every yeare, as long as I live: and so I save the right of entry to mine heire. *Termes of Law.* Againe, if I haue a slave or villeine broken from me, and remaining any where within the auncient demeasne of the King, being in the hands of the King, I cannot maintaine the writ *de nativo habendo*, as long as hee continueth there: but if I claime him within the yeare and the day, and so continue my claime, vntil I can find him within that compasse: I may lawfully lay hold of him as mine owne. *Fitz. nat. br. fol. 79.* See more in *Lutetion, verbo Continuall claime.* And the new Booke of Entries. *Ibid. and Fleta. lib. 6. cap. 53.*

Contract (*contractus*) is a covenant or agreement with a lawfull consideration or cause, *VVest. parte prim. symbol. lib. 1. Sect. 10. and lib. 19. de verbo. Significa.* with other places, it is thus defined: *Contractus est negotium inter duos pluresve data opera gestum, ut vel uterque invicem, vel alteruter obligetur.* Who so will thoroughly examine the difference betweene this and (*pactum*) and such other words something like in signification: let him search the Civilians, and hee shall find worke both pleasant and profitable, and well fitting the common law also.

Contra formam collationis, is a writ that lyeth against an Abbot, or his successor, for him, (or his heire) that hath given land to an Abbey, to certaine good uses, and finderh that the Abbot or his successour hath made a Feoffment thereof, with the assent of the tenants, to the disherison of the house and Church. This is founded upon the statute of *VWestm. 2. ca. 41.* And of this see the *Regist. orig. fol. 238.* and *Fitzh. nat. br. fol. 210.* And note that the Author of the Termes of law saith, that this is not brought against the tenent or alience.

Contra formam feoffamenti, is a writ that lyeth for the heire of a tenent infeofed of certaine lands or tenements, by charter of Feof-

ment by a Lord, to make certaine services and suites to his Court, and is afterward distreined for more, than is contained in the said charter, *Reg. orig. fo. 176. Old nat. br. fol. 162.* and the Termes of the law.

Contribusione facienda, is a writ that lieth in case where more are bound to one thing, and one is put to the whole burthen, *Fitz. nat. br. fol. 162.* bringeth these examples: If tenants in common or joynt, hold a Mill (*pro indiviso*) & equally take the profits thereof, the Mill falling to decay, and one, or more of them, refusing to contribute toward the reparation thereof, the rest shall have this writ to compell them. And if there be 3. coparceners of land, that owe suite to the Lords Court, and the eldest perform the whole: then may she have this writ to compell the other two to a contribution of the charge, or to one of them, if one onely refuse. The *Old nat. br.* frameth this writ to a case, where one only suit is required for land, & that land being sold to divers, suit is required of the all, or some of them by distress, as intirely, as if all were still in one, *fo. 103.* See the *Reg. orig. fol. 176.*

Controller (*contratulator*) cometh of the french (*contrerouleur*. i. *antigraphus*, *gracè d'originals*.) which in Rome was used for him, *cui id muneris injunctum erat*,

ut observaret pecuniam, quam in usum Principis vel civitatis colligerunt exactores. Budens in annota. prio. in pand. tit. De officio quaestoris. In England wee have divers officers of this name: as Controller of the Kings house, *pl. cor. fol. 52. & anno 6. H. 4. cap. 3.* Controller of the Navie, *anno 35. Elizabeth, cap. 4.* Controller of the Custome, *Cromptons Iuris d. fol. 105.* Controller of Calis, *anno 21. Rich. 2. cap. 18.* Controller of the Mint, *anno 2. H. 6. cap. 12.* Controller of the Hamper, (*Contrarotulator Hamperii*) which is an officer in the Chancerie attending on the Lord Chancellor, or Keeper daily in the Terme time, and dayes appointed for sealing. His office is to take all things sealed from the Clerke of the Hanaper, inclosed in bags of Lether, as is mentioned in the said Clerkes office, and opening the bags, to note the just number, and especiall effect of all things so received, and to enter the same into a speciall Booke, with all the duties appertaining to his Majestie, and other officers for the same, and so chargeth the Clerke of the Hanaper with the same. Controller of the Pipe, (*contrarotulator Pipe*) who is an officer of the Exchequer that writeth out summons twice every yeare to the Sheriffes, to levie the Fermes and debts of the

Pipe, and also keepeth a contrarolment of the Pipe. *Controller of the Pell*, is also an officer of the Exchequer, of which sort there be two, viz. the two Chamberlaines Clerkes, that do, or should keepe a controlment of the Pell of receites and goings out. And in one word, this officer was originally one, that tooke notes of any other officers accounts or receipts, to the intent to discover him, if he dealt amisse, and was ordained for the Princes better securitie, howsoever the name sithence may be in some things otherwise applyed. To the prooffe whereof; you may take these few words out of *Fleta, li. 1. cap. 18 in prim. Qui cum fuerint ad hoc vocati & Electi*, (speaking of the Coroners) *attachiari precipiant appella: qui & capitula corona in comitatu presentet: contra quos vicecomes loci habeat contrarotulum, tam de appellis & inquisitionibus, quam alius officium illud tangentibus, &c.* Which (*contrarotulum*) is nothing else, but a parallell of the same quality and contents: with the *πρωτοπρω*, or originall. This also appeareth by *anno 12. Ed. 3. cap. 3.* And this signification it seemeth to have also in *France*. For there the King hath his receivers of Tailles in every Province, and Controllers, *qui ad majorem fidem susceptoribus accedunt, describuntq;*

in tabulis qua colliguntur. Gregorii syntagn. li. 3. ca. 6. nu. 6.

Conventione, is a writ, that lyeth for the breach of any covenant in writing, *Register orig. fol. 185. Old nat. br. fol. 101. Fitzh. calleth a writ of covenant, nat. br. fol. 145.* who devideth covenants into personall and reall, making a sufficient discourse of them both: as also, how this writ lyeth for both.

Convict, (*convictus*) is he that is found guilty of an offence by the verdict of the Iurie, *Stamf. pl. cor. fo. 186.* yet *Master Crompton* out of Iudge *Dyers* Commentaries 275. saith, that conviction is, either when a man is outlawed, or appeareth and confesseth, or else is found guilty by the inquest, *Crompt. Inst. of peace, fo. 9. a.* Conviction and attainder are often confounded, *li. 4. fo. 46. a. b.* See *Attaint*.

Coparceners, (*participes*) be otherwise called *Parceners*: and in common law, are such as have equall portion in the Inheritance of their Ancestour; and, as *Littleton* in the beginning of his third Booke saith, *Parceners* be either by law, or by custome. *Parceners* by law, are the issue Female, which (no heire Male being) come in equality to the lands of their Ancestours, *Bract. lib. 2. cap. 30.* *Parceners* by custome, are those that by custome

of the countrey, challenge equall part in such lands: as in *Kent* by the custome called (*Gavel Kind*) This is called *Adequatio* among the *Fendists. Hot. in verbis fenda. verbo. Adequatio.* And among the *Civilians* it is termed *familie erciscunda iudicium, quod inter coheredes ideo redditur, ut & hereditas dividatur, & quod alterum alteri dare facere oportebit, praestetur, Hotoman.* Of these two you may see *Littleton* at large in the first and second chapters of his third Booke, and *Britton, cap. 27.* intituled, *De heritage divisible.* The Crowne of England is not subject to Coparcinory, *anno 25. H. 8. ca. 22.*

Copie, (*copia*) commeth from the French (*copia. i. le double de quelque escripture, latine descriptio, grace ἀπογραφή*,) and signifieth in our common language, the example of an originall writing; as the copie of a Charter, the copie of a Court roll.

Copia libelli deliberanda, is a writ that lyeth in case where a man cannot get the copie of a Libell at the hands of the Iudge Ecclesiasticall, *Reg. orig. fo. 51.*

Copie-hold. (*tenura per copiam rotuli curia*) is a tenure, for the which the tenent hath nothing to shew, but the copie of the Rolls made by the Steward of his Lords court. For the Steward, as hee inrolleth, and maketh Remembrances

membrances of all other things done in the Lords court : so hee doth also of such tenents , as be admitted in the Court , to any parcell of land or tenement belonging to the Manor : and the transcript of this , is called the Court roule : the copie whereof the tenent taketh from him , and keepeth as his onely Evidence , *Coke, li. 4. fol. 25. b.* This tenure is called a Base tenure , because it holdeth at the will of the Lord . *Kitchin, fol. 80. cap.* Copy-holds . *Fitzh. nat. br. fol. 12. B. C.* who there saith , that it was wont to be called tenure in villenage , and that this Copie-hold is but a new name . Yet is it not simply at the will of the Lord , but according to the custome of the Manor . So that if a Copie-holder breake not the custome of the Manor , and thereby forfeit his tenure , hee seemeth not so much to stand at the Lords courtesie for his right , that hee may be displaced hand over head at his pleasure . These customes of Maner be infinite , varying in one point or other , almost in every severall Maner . First , some Copy-hold is fineable , and some certaine : that which is fineable , the Lord rateth at what fine or income he pleaseth , when the tenent is admitted unto it : that which is certaine , is a kind of inheritance , and called in many places

Customarie : because the tenent dying , and the hold being void , the next of the blood paying the customarie fine , as two Shillings for an Acre or such like , may not be denied his admission . Secondly , some Copy-holders have by custome , the wood growing upon their owne land , which by Law they could not have . *Kitchin ubi supra.* Thirdly , Copy-holders , some be such as hold by the verge in ancient Demesne : and although they hold by Copy , yet are they in account a kind of Free-holder . For if such a one commit Felonie , the King hath (*annum, diem, & vastum*) as in case of Freehold . Some other hold by common tenure , called meere Copy hold : and they committing Felonie , their land escheateth to the Lord of the Maner forthwith . *Kitchin, fol. 81. chap.* Tenents per verge in ancient Demesne . What ancient Demesne is , see in the right place . See Tenent by copie of Court roule . This is the land that in the Saxons time , was called Folk land . *Lamberd, explicat.* of Saxon words , verbo , *Terra ex scripto. VVest. parte prim. symb. li. 2. Sect. 646.* defineth a Copie-holder thus : Tenent by copie of Court roll , is hee which is admitted tenent of any lands or tenements within a Maner , that time out of the memory of man , by

by vse and custome of the said maner, haue beene dimisable, and dimised to such, as will take the same in fee, in feetaile, for life, yeares, or at will, according to the custome of the said maner, by copy of courtrolle of the same maner, where you may reade more of these things.

Coraage (*coraagium*) is a kinde of imposition extraordinary, and growing vpon some vnusuall occasion, and it seemeth to bee of certaine measures of corne. For *cornus tritici*, is a certaine measure of corne. *Bracton libro 2. ca. 16. nu. 6.* who in the same chapter, *nu. 8.* hath of this matter these words: *Sunt etiam quadam communes prestationes, qua seruitia nō dicuntur, nec de consuetudine veniunt, nisi cū necessitas interuenerit, vel cū rex venerit: sicut sunt hidagia, coraagia, & carvagia, & alia plura de necessitate & ex consensu communi totius regni introducta & qua ad dominum feudi non pertinent, & de quibus nullus tenetur tenentem suum acquietare, nisi se ad hoc specialiter obligauerit in charta sua, &c.*

Cordiner, commeth of the French (*Cordonannier*. i. *sutor calcarius*) a shoemaker, and is so vsed in diuers Statutes, as *anno 3. H. 8. cap 10. et anno 5. ejusdem ca. 7.* and others.

Cornage (*cornagium*) commeth

of the French (*cor. i. cornu*) and in our common law, signifieth a kind of grand seargeanty, the seruice of which tenure, is to blow a horne, when any invasion of the Northerne enemy is perceived. And by this many men hold their land northward, about the wall, commonly called the Picts wall. *Camden Britan. pag. 609.* hence commeth the word (*cornuare*) to blow a horne. *pupil. oculi, parte 5. ca. 22. in charta de Foresta.* This seruice seemeth to haue proceeded from the Romans. For I find (*cornicularios*) mentioned in the civile law. *viz. li. 1. Cod. de officio diverso. Ind 48. lege 3. et lib. 12. titulo de apparitoribus praefectorum pratorio, 53. lege 1. et 3.* where *Lucas de Penna* defineth them (*eos qui cornu faciunt excubias militares.* And *Brissotius lib. 3. de verbo significat.* saith thus of them: (*hi militum quoddam genus fuere, qui corniculo merebant, unde nomen habent.* Where it appeareth by him out of *Suetonius*, *Plinie*, and *Livie*, that the horne was an honour and reward given for seruice in war.

Corner tile. See *Gutter tile.*

Corody (*corodium*) commeth of the Latine verbe (*corrodo*) and signifieth in our common Law, a summe of money or allowance of meate and drinke due to the King from an Abbey, or other house of Religion, whereof he is the founder, toward the reasona-

ble sustenance of such a one of his servants, being put to his pension, as hee thinketh good to bestowe it on. And the difference betweene a corrodie and a pension seemeth to be, that a corrody is allowed toward the maintenance of any the Kings servants, that liveth in the Abbey: a pension is given to one of the Kings chaplaines for his better maintenance in the Kings service, vntill hee may bee provided of a benefice. Of both these read *Fitzh. nat. br. fol. 230. 231. 233.* who there setteth downeall the corrodies and pensions certaine, that any Abbey, when they stood, was bound to performe vnto the king. There is mention also of a corrody in *Stawns. prerogative 44.* And this seemeth to be an auncient law. For in *Westm. 2. cap. 25.* it is ordained, that an assise shall lie for a corrody. It is also apparent by the statute. *anno 34. & 35. H. 8. cap. 16.* that corrodies belonged some time to Bishops from Monasteries: and by the newe termes of lawe, that a corrody may bee due to a common person by graunt from one to another, or of common right, to him that is founder of a religious house, not holden in franke almoine. For that tenure was a discharge of all corrodies in it self. By which booke it appeareth also, that a corrody is either cer-

taine or vncertaine, and that it may bee for life, yeares, in taile, or in fee.

Corodio habendo, is a Writ whereby to exact a corrody of any abbey or religious house. See *Corodie*, See the *Register originall fol. 264.*

Coronatore eligendo, is a Writ which after the death or discharge of any coroner, is directed to the Shyreve out of the Chancery, to cal together the free holders of the Countie, for the choise of a new Coroner, to certifie into the Chancerie, both the election, and the name of the party elected, and to give him his oath. See *Westm. 1. ca. 10.* and *Fitzh. nat. br. fol. 163.* and the *Register orig. fo. 177.*

Coroner (coronator) is an ancient officer of this land, so called, because hee dealeth wholly for the king and crowne. There be foure of them commonly in every county, and they are chosen by the freeholders of the same upon writ, and not made by letters Patents. *Crompt. Jurisd. fo. 126.* This officer, though now hee be some inferiour gentleman, that hath some smattering in the Law: yet if we looke to the statute of *Westm. 1. cap. 10.* we shall finde, that hee was wont, and ought to bee, a sufficient man: that is, the most wise and discrete knight, that best will and

may attend upon such an office. Yea, there is a writ in the *Register*, *Nisi sit miles*, fo. 177. b. whereby it appeareth, that it was sufficient cause to remove a Coroner chosen, if hee were not a Knight, and had not a hundred Shillings rent of Freehold. And the Lord Chiefe Iustice of the Kings Bench, is the Sovereigne Coroner of the whole Realme in person. i. wheresoever hee remaineth, *libro assisarum* f. 49. 5. coron. *Coke*, li. 4. casu. de Wardens, &c. of the Sadlers, fo. 57. b. His office especially concerneth the Plees of the Crowne: But if you will reade at large, what anciently belonged unto him: reade *Bract.* li. 3. tra. 2. ca. 5, de officio coronatorum circa homicidium: and ca. 6. de officio coronatoris in thesauris inventis: and ca. 6. de officio coronatorum in raptu virginium: and ca. 8. de officio coronatorum de pace & plagis. And *Britton* in his first chapter, where he handleth it at large. *Fleta* also in his first booke, cap. 18. and *Andrew Horns* mirrour of Iustices, li. 1. ca. del office del coroners. But more aptly for the present times, *Stawms. pl. cor.* li. 1. ca. 51. Note there be certaine Coroners speciall within divers liberties, as well as these ordinary officers in every Countie: as the Coroner of the Verge, which is a certaine compasse about the Kings court, whom *Crompton* in

his *jurisd.* fo. 102. calleth the Coroner of the Kings house: of whose authoritie see *S. Edm. Cokes reports*, li. 4. fo. 46. a. b. And I know certaine charters belonging to Colleges, and other Corporations, whereby they are licensed to appoint their Coroner within their own precincts. Farther of this office see also *Fitzh. nat. br.* fo. 76. A. B. *Sir Thomas Smith*, li. 2, ca. 21, de republ. Anglo. and *Lamb. Eirenarcha*, li. 4, ca. 3, pa. 380. And the office of the Coroner in Scotland, what it is, reade *M. Iohn Skene de verbo*, signific. verbo, Iter.

Corporation (*Corporatio*) is that which Civill law calleth *Unversitatem*, or *Collegium*: A bodie Politicke authorised by the Kings Charter, to have a common Scale, a head officer, one or more, and members able by their common consent, to grant, or to receive in law, any thing within the compasse of their Charter: even as one man may doe by law all things, that by law hee is not forbidden: and bindeth the Successours, as a single man bindeth his Executour or Heire. See *Brokes* his abridgement, titulo *Corporation*: and the new Termes of Law, *Eodem*.

Corpus cum causa, is a writ issuing out of the Chancerie, to remove both the bodie and

the record touching the cause of any man lying in execution, upon a judgement for debt into the Kings Bench, &c. there to lye untill hee have satisfied the judgement, *Fitzh. nat. br. fo. 251. E.*

Corrector of the staple, is an officer, or Clerke belonging to the Staple, that writeth and recordeth the bargains of Merchants there made, *anno 27. Ed. 3. stat. 2. cap. 22. & 23.* The Romans called them *Mensarios*.

Corruption of blood, is an infection growing to the state of a man attainted of Felonie or Treason, and to his issue. For as hee leeseeth all to the Prince, or other Lord of the Fee, accordingly as his case is, so his issue cannot be heires to him, or to any other Ancestor, of whom they might have claimed by him. And farther if he were noble, or a Gentleman before, hee and his children are made unnoble and ungente in respect of the father. New Termes of the law.

Corse present, are words borrowd from the French, signifying a Mortuarie, *anno 21. H 8. ca. 6.* The true French is (*corps presenté*) i. the bodie presented or tendered. The reason why the Mortuarie is thus also termed, seemeth to be, for that where a Mortuarie was wont to be due, the bodie of the best Beast was according to the law or custome,

offered or presented to the Priest.

Corselet, is a French word, signifying a little Bodie, in Latine (*corpusculum*.) It is used with us, for an armour to cover the whole body, or trunk of a man, *anno 4. & 5. Ph. & Mar. cap. 2.* wherewith the Pike-men, commonly set in the front and flanks of the battell, are armed, for the better resistance of the enemies assaults, and the surer guard of the Gunners placed behind, or within them, being more slightly armed, for their speedier issuing in and out to discharge their Peeeces. See *Barrets* discourse of Warre, *li. 3. dialog. 2.*

Cosenage, (*cognatione*) is a writ, that lyeth where the Tresaille (that is, Tritavus, the father of the Besaile, or of the great Grandfather) is seised in his Demesne, as of Fee, at the day of his death, of certaine lands or tenements, and dyeth: and then a stranger entreth and abateth. For then shall his heire have this writ of *Cosenage*: the forme whereof see in *Fitzh. nat. br. fo. 221.* Of this also reade *Britton* at large, *ca. 89.*

Cosening, is an offence unnam'd, whereby any thing is done guilefully in or out of contracts, which cannot be fitly termed by any especiall name, *West. parte 2. symbologie. titulo. Indictments. sect. 68.* It is called *stellionatus* in the civill law of (*Stellio*) the
beast

beast, which is *lacerta* genus *vir-*
sutissimum, as *Cujacius* in his *pa-*
ratiles calleth it, and, *quo nullum*
animal homini invidet fraudulent-
is. *Plinie*, li. 3. ca. 10.

Cotage, (*cotagium*) is a house
without land belonging unto it.
anno 4. *Ed. pri. statut. primo*. And
the inhabitant of such a house is
called a *Cotager*. But by a later
statute, no man may build a *Co-*
tage, but hee must lay 4. Acres of
ground unto it, 31. *Eli. ca. 7.*

Cote, is a kind of reffuse wooll
clung or clotted together, that it
cannot be pulled asunder, anno
13. *R. 2. stat. 1. ca. 9.* It signifieth
also as much as *Cotage*, in many
places, as also it did among the
Saxons, *Versegan* in his *Restitut. of*
decayed intelligence in antiquities.

Covenable, (*rationabilis*) is a
French word, signifying, fit or
convenient, or futeable, coven-
ably endowed, anno 4. *H. 8. ca. 12.*
it is anciently written (*convena-*
ble) as in the statute, an. 27. *Ed. 3.*
stat. 2. ca. 17.

Covenant, *cōvensio*, is the consent
of 2, or more in one self thing, to
do, or give somewhat, *West. parte*
2. symbol. li. 1. sect. 4. It seemeth to
be as much as (*pactum*, *conven-*
tum) with the *Civilians*, which
you reade often times in *Tullie.*
Pactum conventum, quod & vulgo
vestitum vocant, opponitur nudo
pacto, velut ab omni juri solennita-
te destituto. Hujus exempla ponere

difficile esse Iason existimavit. Con-
ventum aiunt, quod vestitur, aut re,
aut verbis, aut literis, aut cōtractus
coherentiā, aut rei interveniū. Ol-
dendorpius. And covenant in this
signification, is either a cove-
nant in law, or a covenant in
fact, *Coke*, li. 4. *Nok's case*, fol. 80.
or covenant expresse, and cove-
nant in law, *idem*, li. 6. fo. 17. a.
Covenant in law is that, which
the law intendeth to be made,
though in words it be not ex-
pressed: as if the lessour doe di-
mise and grant, &c. to the Leas-
see for a certaine terme, the
law intendeth a covenant of
the Lessers part, that the Lessee
shall, during his whole terme,
quietly enjoy his Lease against all
lawfull encumbrance. Covenant
in fact, is that which is expresse-
ly agreed betweene the parties.
There is also a covenant meere-
ly personall, and a covenant reall,
Fitzh. nat. br. fol. 145. And he see-
meth to say, that a covenant re-
all is, whereby a man tyeth him-
selfe to passe a thing reall, as
land or tenements, as a cove-
nant to levie a Fine of land, &c.
a covenant meere-ly personall of
the other side is, where a man
covenanteth with another by
deed, to build him a house, or a-
ny other thing, or to serve him,
or to incoffee him, &c. Covenant
is also the name of a writ, for
the which see *Conventione*. *Instu-*

ments of covenants, you may see good store in *West. parte .i. Symbolaog. lib. 2. sectio 100.* See also the newe booke of Entries. *verbo, Covenant.*

Covent, (conventus) signifieth the society or fraternitie of an abbie or priorie, as (*societas*) signifieth the number of fellows in a Colledge. *Bracton. lib. 2. cap. 35.* It commeth of the French (*cōvent .i. canobium.*)

Coverture, is a French word signifying any thing that covereth, as apparell, a couerlet, &c. and deduced from the verb (*con-vir .i. tegere*) It is particularly applied in our common Lawe, to the estate and condition of a married woman who by the lawes of our Realme, is in (*potestate viri*) and therefore disabled to contract with any, to the prejudice of her selfe or her husband, without his consent and privitie; or at the least, without his allowance and confirmation. *Broke hoc tit. per totum.* And *Bracton* saith, that *omnia qua sunt uxoris, sunt ipsius viri, nec habet uxor potestatem sui, sed vir. li. 2. cap. 15.* and that (*vir est caput mulieris*) *li. 4. cap. 24.* and againe, that in any lawe matter, *sine viro respondere non potest, li. 5. tract. 2. cap. 3.* and *tract. 5. cap. 23. ejusdem libri.* hee hath words to this effect: *vir & uxor sunt quasi unica persona: quia caro una et sanguis unus. Res licet*

sit propria uxoris, vir tamen ejus custos, cum sit caput mulieris, and lib. 1. cap. 10. nu. 2. Vxores sunt sub virga viri. And if the husband alienate the wifes land, during the mariage, shee cannot gaine say it during his life. See *Cui ante divortium,* and *Cui in vita.*

Covine, (covina) is a deceitfull assent or agreement betweene two or more, to the prejudice or hurt of another. New termes of law. It commeth of the French verbe (*convenancer .i. depa(cisi.)*) or rather (*convenir .i. convenire.*)

Cowcher, signifieth a Factor that continueth in some place or Countrey for trafique. *anno 37. Ed. 3. cap. 16* It is vsed also for the generall booke, into which any Corporation entreth their particular acts for a perpetuall remembrance of them.

Counte, commeth of the french (*compte .i. subductus, computatio, ratio*) or of (*comte .i. narratio.*) It signifieth as much as the originall declaration in a proces, though more vsed in reall actions then personall, as declaration is rather applied to personall then reall. *Futb. nat. br. fol. 16. A. 60. D. Pl. 71. A. 191. E. 217. A. (Libellus)* with the Civilians comprehendeth both. And yet count and declaration bee confounded sometimes; as count in debt. *Kutchin. fol. 281.* count or declaration in appeale. *pl. cor. fol. 78.*

Count in trespassse, *Bitton, cap. 26.*
 Count in an action of Trespassse
 upon the case for a slander, *Kitch.
 fol. 252.* This word seemeth to
 come from *France & Normandy.*
 For in the grand Customarie, *ca.*
64. I find (*Conteurs*) to be those,
 which a man setteth to speake
 for him in court, as advocates: and
cap. 63. (*Pleders*) to be another
 sort of spokes men, in the nature
 of Attorneys, for one, that is him-
 selfe present, but suffereth ano-
 ther to tell his tale. Where also
 in the 65. chapter, Attourney is
 said to be hee, that dealeth for
 him that is absent. See this text
 and glosse upon those 3. chapters.
Countours (by *Horn* in his *Mirror*
 of Iustices, *li. 2. ca. Des loyers*) are
 Sergeants skilfull in the law of
 the Realme, which serve the
 common people, to pronounce
 and defend their actions in judge-
 ment for their fee, when occasion
 requireth: whose duty, if it be as
 it is there described, and were
 observed, men might have much
 more comfort of the Law then
 they have.

Countenance, seemeth to be u-
 sed for credit or estimation, *Old
 nat. br fo. 111.* in these words: Al-
 so the attainr shall bee granted
 to poore men that will sweare,
 that they have nothing whereof
 they may make Fine, saving their
 countenance, or to other by a
 reasonable Fine. So is it used, *anno*

1. Ed. 3. stat. 2. cap. 4. in these
 words: Sheriffs shall charge the
 Kings debtors with as much as
 they may levie with their oathes,
 without abating the Debtors
 countenance.

Cownter (*computatorium*) see-
 meth to come of the Latine (*com-
 putare*) or the french (*countre.*) For
 we use it for the name of a prison,
 whereinto, he that once slippeth,
 is like to account ere he get out.

Counter plee, is compounded of
 two french words (*contro. i. con-
 tra, adversus*) and (*pleder. i. causam
 agere.*) It signifieth properly in
 our common law, a replication
 to (*ayde prier.*) For when the te-
 nent by courtesie, or in dower,
 prayeth in ayde of the King,
 or him in the reversion, for his
 better defence: or else if a stranger
 to the action begun, desire to be
 received, to say what hee can for
 the safegard of his estate: that
 which the demandant alleageth
 against this request, why it should
 not be admitted, is called a coun-
 ter plee. See *Broke b.t.* And in this
 signification it is used, *anno 25.
 Ed. 3. stat. 3. cap. 7.* See also the
 new termes of the law, and the
 statute, *anno 3. Ed. 1. cap. 39.*

Connty, (*comitatus*) signifieth
 as much as (*Shire*) the one descen-
 ding from the French, the other
 from the Saxons, both contain-
 ing a circuit or portion of the
 realme, into the which the whole
 land.

land is divided, for the better Government thereof, and the more easie administration of justice. So that there is no part of the Kingdom, that lieth not within some County, and every County is governed by a yearly officer, whom we call a Sheriffe, which among other duties belonging to his office, putteth in execution all the Commandements and Iudgments of the Kings courts, that are to be executed within that compasse, *Forseſcue cap. 24.* Of these Counties, there be foure of especiall marke, which therefore are termed Countie Palatines, as the Countie Palatine of *Lancaster*, of *Chester*, of *Durham*; & of *Ely*, *an. 5. Eliz. 1. c. 23.* I read also of the Countie Palatine of *Hexam.* *an. 33. H. 8. ca. 10. Unde quere.* And this County Palatine is a Iurisdiction of so high a nature, that whereas all Pleees touching the life, or mayhem of man, called Pleees of the Crowne, be ordinarily held and sped in the Kings name, and cannot passe in the name of any other, the chiefe Governors of these, by especiall charter from the King, did heretofore send out all writs in their owne name, and did all things touching Iustice, as absolutely as the Prince himselfe in other Counties, only acknowledging him their Superiour and Sovereigne. But by the statute *anno 27. H. 8. ca. 25.* this power is

much abridged, unto the which I refer the reader; as also to *Crom. Iuris. fo. 137.* for the whole course of this court. Besides these Counties of both sorts, there be likewise Counties Corporate, as appeareth by the statute *anno 3. Ed. 4. 5.* And these be certaine Cities; or ancient Boroughs of the land, upon which the Princes of our Nation have thought good to bestow such extraordinary liberties. Of these the famous Citie of *London* is one, and the principall; *Yorke* another, *an. 32. H. 8. cap. 13.* the Citie of *Chester* a third. *an. 42. Eliz. cap. 15.* *Canterburie* a fourth, *Lamb. Ewe. lib. 1. cap. 9.* And to these may be added many more: but I have onely observed out of the statutes and other writers, the County of the towne of *Kingston upon Hull*, *anno 32. H. 8. cap. 13.* the County of the towne of *Havord West.* *anno 35. H. 8. cap. 26.* and the Countie of *Litchfield*, *Cromptons Iustice of peace, f. 59. a.* Countie is in another signification used for the Countie court, which the Sheriffe keepeth every month within his charge, either by himselfe or his Deputie, *anno 2. Ed. 6. ca. 25. Crompt. Iuris. f. 221. Braet. li. 3. c. 7. & l. 3. traet. 2. cap. 12.* Of these Counties or Shires one with another, there are reckoned in *England* 37. beside twelve in *Wales.*
The

The word (*comitatus*) is also vsed for a iurisdiction, or territorie among the Feudists.

County court (*curia comitatus*) by *M Lamberd* is otherwise called (*conventus*) in his explication of Saxon words, and divided into two sorts: one retaining the generall name, as the County court held every moneth by the Shyrevee, or his deputie the vnder-shyreue, whereof you may read in *Cromptons Iurisd. fo. 231.* the other called the Turne, held twice every yeare, which see more at large in his place: and *Cromptons Iurisd. fol. 231.* This County court had in auncient times the cognition of these and other great matters, as may appeare by *Glanvile lib. 1. cap. 2. 3. 4.* by *Bracton* and *Britton* in divers places, and by *Fleta lib. 2. cap. 62.* But that was abridged by the Statute of *Magna charta. cap. 17.* and much more by *1. Ed. 4. cap. unico.* It had also, and hath the determination of certaine trespasses, and debts vnder forty shillings. *Britton. cap. 27. et 28.* what maner of proceeding was of old used in this Court, see *Fleta ubi supra.*

Courstour. See *Curscour.*

Court (*curia*) commeth of the French (*court*) which signifieth the Kings Pallace or Mansion, as (*curtis*) doth among the *Lombards.* All these spring of the La-

tine (*curia*) which signifieth one of thirty parts, into which *Romulus* divided the whole number of the Romans: sometime also the Senat house, as appeareth by *Tully* in his Offices (*nihil est quod dignū nobis, aut in foro aut in curia agere possumus*): which in his oration (*pro Milone*) he calleth, *Templum sanctitatis, amplitudinis mentis, consilii publici, caput urbis, &c.* Court, with vs, signifieth diversly: as the house where presently the King remaineth with his ordinarie retinue, and also the place where Iustice is judicially ministred: of which you finde 32. several sorts in *M. Cromptons* book of *Iurisdiction* well described. And of them most bee courts of record: some be not, and therefore are accounted base courts in comparison of the rest. Beside these also there are Courts Christian. *Smith de repub. Anglor lib. 3. ca. 9.* which are so called, because they handle matters especially appertaining to Christianitie, and such as without good knowledge in Divinity cannot be well judged of, being held heretofore by Archb. and Bishops, as from the Pope of Rome: because hee chalenged the superioritie in all causes spirituall: but sithence his eiection, they hold them by the Kings authoritie (*virtute magistratus sui*) as the Admirall of England doth his Court. Where-

upon it proceedeth, that they send out their precepts in their owne names, and not in the Kings, as the Iustices of the Kings Courts doe. And therefore as the appeale from these Courts did ly to *Rome*: now by the statute *anno 25. H. 8. cap. 19.* it lieth to the King in his Chauncerie.

Court baron (curia baronis) is a Court that every Lord of a maner (which in auncient times were called Barons) hath within his owne precincts. Barons in other Nations have great Territories and iurisdiction from their Sovereignes: as may bee proved out of *Cassanais de gloria mundi. parte 5. consideratio 56.* by *Vincentius de Franchis de scis. 211.* and many others. But heere in *England* what they bee, and have beene heretofore, see in *Baron*. Of this Court Baron you may reade your fill in *Kirchin*, that writeth a large Booke of it, and of a Court Leete. *S. Edward Coke* in his fourth Booke of Reports, amongst his Copyhold cases. *fol. 26. b.* saith, that this Court is two after a sort: and therefore if a man having a maner in a Towne, and doe graunt the inheritance of the Copyholders thereunto belonging, unto another: this grantee may keep a Court for the customarie tenants, and accept surrenders to the use of others,

and make both admittances and graunts: the other Court is of Freeholders, which is properly called the Court Baron, wherein the suters, that is, the Freeholders be Iudges: whereas of the other the Lord or his Steward is Iudge.

Court of Pypowders. See *Picpowders*.

Court of Requests (curia requestarum) is a Court of equitie, of the same nature with the Chauncerie, principally instituted for the helpe of such petitioners, as in conscionable cases deale by supplication with his Maiestic. This Court, as *M. Gwin* saith, in the preface to his Readings, had beginning from Commission first graunted by *Henry the 8.* to the masters of Requests: whereas before that time (by his opinion) they had no warrant of ordinary iurisdiction, but travelled betweene the King and the Petitioner by direction from the Kings mouth. But *Sir Iulius Caesar* in a Tractate of his, painefully and very indiciouly gathered from the records of the same Court, plainly sheweth that this Court was *9. Henrici septimi*, though then following the King, and not settled in any certaine place, neither swayed particularly by the Masters of Requests, (as now it is) but more at large by others of

of the Kings most Honourable Councell, whom hee pleased to employ in this service. For *page 148.* of the said Tractate, you have the forme of the oath then ministred to those that were Iudges in this Court: and *à pag. prim. usque ad pag. 46.* causes of divers natures, which in the said Kings dayes, were there handled and adjudged. This Court, as that right Honourable and Learned Knight, in a Brieve of his upon the same Court plainly proveth, was and is parcell of the Kings most Honourable Councell, and so alwaies called and esteemed. The Iudges thereof were alwaies of the Kings most Honourable Councell, appointed by the King to keepe his Councell board. The keeping of this Court was never tyed to any place certaine, but onely where the Councell sate, the suters were to attend. But now of late for the ease of suiters, it hath bene kept in the White Hall at *Westminster*, and onely in the Terme time. It is a court of Record, wherein Recognizances are also taken by the Kings Councell. The forme of proceeding in this court, was altogether according to the processe of summarie causes in the Civill law. The persons Plaintiffes and Defendants, were alwaies either priviledged, as officers of the Court, or their ser-

vants, or as the Kings servants; or as necessarie Attendants of them: or else where the Plaintiffes povertie, or meane estate was not matchable with the wealth or greatnesse of the Defendant: or where the cause meerely contained matter of Equitie, and had no proper remedie at the Common law: or where it was specially recommended from the King to the Examination of his Councell: or concerned Universities, Collages, Hospitals, and the like. The causes where-with they deale, and whereof they judge, are of all sorts: as *Maritime*, *Ultra Marine*, Ecclesiasticall, Temporall; But properly Temporall causes, and onely of the other sort, as they are mixt with Temporall. The manner of proceeding in the said court, is first, by Privie Seale, Letters Missive, or Injunction, or Messenger, or Bond. Secondly, by Attachment. Thirdly, by Proclamation of Rebellion. Fourthly, by Commission of Rebellion. Fifthly, by Sergeant at Armes. The effect of the Defendants Appearance is, that hee attend *De die in diem* on the Councell, till hee have made his Answer to the Plaintiffes Bill, and bee licensed to depart upon caution *De iudicio sisti & iudicatio*

solvendo, and constitution of his Attorney and Councell by name. The authority of this Court is such, as vpon cause to graunt injunctions for barring the defendant from syewing the Plaintiffe at the Common Lawe: and to stay the suite at the Common Lawe before commencement, and not to arrest the body of the Plaintiffe till further order be taken by the Kings Councell: and the execution of a Decree in this Court may bee done, either by imprisonment of the person disobeying, being partie, or claiming, vnder the party: or by leuy of the summe adiudged vpon his Lands.

Courtesie of England (lex Anglie) commeth of the French, (*Courtesie. i. benignitas, humanitas*) but with us hath a proper signification, being used for a tenure. For if a man marry an Inberetrice, that is, a woman seised of Land in fee simple, or fee taile generall, or seised as heire of the taile speciall, and getteth a Childe of her that commeth alive into the world, though both it and his wife die forthwith, yet, if she were in possession, shall he keepe the land during his life, and is called *tenent per Legem Anglie*, or by the courtesie of England. *Glanvil. lib. 7. cap. 18. Bracton. li. 5. tracta. 5. cap. 30. un.*

7, 8, 9. *Britton. cap. 51. fol. 132. Fleta. li. 6. ca. 56. §. lex quadam. Fitzh. nat. br. fol. 149. D. Littleton. li. 1. cap. 4.* It is called the law of England. *Westm. 2. ca. 3.* This is in Scotland called (*curialitas Scotiae. Skene de verbo sign. verbo Curialitas*: who there saith that this is used in these two Realmes onely, and maketh a large discourse of the custome.

Conteintlaughe, is he that wittingly receiveth a man outlawed, and cheriseth or hideth him. In which case hee was in auncient times subiect to the same punishment, that the outlawe himselfe was. *Bracton. lib. 3. tracta. 2. cap. 13. un. 2.* It is compounded of (*conthe. i. knowne, acquainted, familiar, and (vclanghe) an outlaw, as we now call him.*

Cortilage, alias curtillage (curtilagium, alias curtilegium) signifieth a garden, a yard, or a field, or peece of voide ground lying neere and belonging to a messuage, *West. par. re. 2. Symbolas. titulo Fines. sect. 26.* And so is it vsed anno 4. *Ed. 1. cap. unico anno 35. H. 8. cap. 4. & anno 39. Eliz. cap. 2. and Coke vol. 6. fol. 64. a.* Of this also *Lindwood* thus writeth. *Curtilegium vulgare nomen est, non omnium patriarum, sed certarum. Est enim curis mansio vel manerium ad habitandum cum terris, possessionibus, & aliis emolumentis ad tale manerium pertinentibus.*

tibus, prout satis colligitur in libro feudorum, titulo, De controversia investitura, §. si quis de manso. Coll. 10. Vnde curtilegium dicitur locus adjunctus tali curti, ubi leguntur herba vel olera: sic dictus à (curtis) & (lego legis) pro colligere. Thus farre Linwood, titulo de decimis. ca. Sancta, §. omnibus, verbo Curtelegiorum. So that in effect, it is a Yard or a Garden adjoining to a house.

Creansour (creditor) cometh of the french (*croiance*. i. *persuasio*) and signifieth, him that trusteth another with any debt, be it in money or wares, *Old nat. br. fol. 67.*

Cranage, (*cranagium*) is a liberty to use a Crane for the drawing up of wares from the vessels, at any creek of the sea or wharfe, unto the land, and to make profit of it. It signifieth also the money paid and taken for the same. *New Booke of Entries, fol. 3. col. 3.*

Creeke, (*creca, crecca, vel crecum*) seemeth to be a part of a Haven, where any thing is landed or dis-burthened out of the Sea. So that when you are out of the Maine Sea, within the Haven, looke how many landing places you have, so many Creeks may be said to belong to that Haven. See *Cromptons jurisdictiones, fol. 110. a.* This word is mentioned in the statute, as *anno*

5. *Eli. ca. 5.* and divers others.

Creast tile. See *Roofe tile.*

Croft, (*croftum*) is a little close or pitle joyned to a house, that sometimes is used for a Hemp ground, sometime for Corne, and sometime for Pasture, as the owner listeth. It seemeth to come of the old English word (*Creast*) signifying handy-craft: because such grounds are for the most part extraordinarilie dressed and trimmed by the both labour and skill of the owner.

Croises, (*cruce signati*) be used by *Britton, ca. 122.* for such as are Pilgrims: the reason may be, for that they weare the signe of the Crosse upon their Garments. Of these, and their Privileges, reade *Bracton, lib. 5. parte 2. cap. 2. & parte 5. cap. 29.* and the *Grand Custumary of Normandy, cap. 45.* Vnder this word are also signified, the Knights of the order of *Saint Iohn of Ierusalem*, created for the defence of Pilgrims, *Gregor. Syntagm. lib. 15. cap. 13. & 14.*

Cucking stoole, (*tumbrella*) is an engine invented for the punishment of Scolds and unquiet women, called in ancient time a tumbrell, *Lamb. Eirenarcha. li. 1. cap. 12. po. 62. in meo.* *Bracton* writeth this word (*Tymborella*.) *Kitchin*, where hee saith, that

every one having view of Frankpledge, ought to have a Pillorie and a Tumbrell, seemeth by a Tumbrell, to meane the same thing, *cap Charge in Court lect. fol. 13. a.*

Cuth, other, uncuth (*privatus vel extraneus.*) These be old English words, not yet worne out of knowledge, for the which see *Roger Hoveden, parte poster. suorum annalium. fol. 345. a.*

Cudutlaghe. See *Contributlaghe.*

Cui ante divortium, is a writ, that a woman divorced from her Husband, hath to recover lands or tenements from him, to whom her husband did alienate them during the marriage: because, during the marriage, shee could not gainsay it, *Register orig. fol. 233. Fitzh. nat. br. fol. 204.*

Cuinage, is a word used for the making up of Tinne, into such fashion as it is commonly framed into for the cariage thereof into other places, *anno 11. H. 7. cap. 4.*

Cui in vita, is a writ of Entry, that a widow hath against him, to whom her Husband aliened her lands or tenements in his life time: which must containe in it, that during his life time, shee could not withstand it; *Regist. orig. fol. 232. Fitzh. nat. br. fol. 193.* See the new Booke of

Entries, *verbo. Cui in vita.*

Cuntee cuntee, is a kind of triall, as appeareth by *Bracton* in these words: *Negotium in hoc casu terminabitur per cuntee cuntee, sicut inter coharedes. Bracton li. 4. tract. 3. cap. 18.* And againe, in the same place: *In brevi de recto negotium terminabitur per cuntee cuntee.* And thirdly, *lib. 4. tract. 4. cap. 2. Terminabitur negotium per breve de recto: ubi nec duellum, nec magna assisa, sed per cuntee cuntee omnino:* which in mine opinion is, as much as the ordinarie Iury.

Curfew, commeth of two French words (*couvrir i. tegere.*) and (*feu i. ignis.*) We use it for an Evening Peale, by the which, the Conqueror willed every man to take warning for the raking up of his fire, and the putting out of his light. So that in many places at this day, where a Bell customably is rung toward Bed time, it is said to ring Curfew: *Stowes annals.*

Curia avifare vult, is a deliberation, that the Court purposeth to take, upon any point or points of a cause, before judgement be resolved on. For this, see the new booke of Entries, *verbo. Curia avifare vult.*

Curia claudenda, is a writ, that lyeth against him, who should fence and close up his ground, if hee refuse, or deferre to doe it, *Regist.*

Regist. orig. fo. 155. Fitzh. nat. br. fol. 127. See also the new Booke of Entries, *verbo, Curia claudenda.*

Cursiter (*clericus de cursu, vel cursista curia concellaria*) is an officer or Clerke, belonging to the Chancerie, that maketh out originall writs, *anno 14. & 15. H. 8. ca. 8.* They be called Clerkes of Course, in the oath of the Clerkes of the Chancerie, appointed *anno 18. Ed. 3 stat. 5. ca. unico.* There be of these, 24. in number, which have allotted unto every of them, certaine Shires; into the which, they make out such originall writs, as are by the subject required, and are a Corporation among themselves.

Curteyn (*curtana*) was the name of King *Edward the Saint* his Sword, which is the first Sword that is caried before the Kings of this Land at their Coronation, *Matham Parisiens. in Henrico tertio.* And I have heard say, that the point thereof is broken: which may argue an Emblem of *Mercie.*

Curilage. See Cortilage.

Custode admittendo, & Custode amovendo, are writs for the admitting or removing of Gardians, *Reg. orig. in indice.*

Custom (*consuetudo*) is all one in signification with our common Lawyers and Civilians, being by them both accounted

a part of the law, *Cōsuetudo quandoque pro lege servatur* (saith *Bracton*) *in partibus ubi fuerit more utentium approbata. Longavi enim temporis usus & consuetudinis non est vilis autoritas, li. 1. ca. 3.* It may be thus not unaptly defined: Custom is a law or right not written, which being established by long use, and the consent of our Ancesters, hath beene, and is daily practised: our Ancesters, that is (*maiores*), and those of our kindred that are *Vira tritavum, lib. 4. §. parentem, π. de injus vocando, l. ult. §. parentes, π. de gradibus & affini, & nominibus eorum.* So that allowing the father to bee so much older then his sonne, as (*pubertas*) or the yeares of generation doe require, the Grandfather so much elder then him, and so forth *usque ad tritavum*: wee cannot say that this or that is a custome, except wee can justifie, that it hath continued so one hundred yeares. For *tritavum* must be so much elder then the party that pleadeth it: yet because that is hard to prove, it is enough for the prooffe of a custome by witnesses in the Common law, (as I have credibly heard) if two or more can depose, that they heard their fathers say, that it was a custome all their time, and that their fathers heard their fathers also say, that it was likewise a custome in their time. If it

be to be proved by record, the continuance of a hundred yeares will serve. Custome is either generall, or particular: Generall I call that, which is current thorow England: whereof you shall reade divers in the *Doctōr* and *Student*, lib. pri. cap. 7. very worthy to be knowne. Particular is that, which belongeth to this or that countie, as *Gavelkind* to *Kent*, or to this or that Lordship, Citie, or Towne. Custome differeth from prescription, for that Custome is common to more, and Prescription (in some mens opinion) is particular to this or that man. Againe, Prescription may be for a farre shorter time then a Custome, viz. for five yeares, or for one yeare, or less. Example of five yeares Prescription you have in the levying of a Fine. For if a Fine duly levied of lands and tenements be not impugned within five yeares, it excludeth all claime for ever. And if man omit his continuall claime for a yeare and a day: then the tenent in possession prescribeth an immunity against the entry of the Demandant and his heire, *Fitzh. nat. br. fo. 79. Terms of the law, verbo, Continuall claime.* Out of our statutes you may have greater diversitie, which see collected in mine Institutes, *titulo de Usucapio: & longi tempo. prescript.* So that *Brissonus*

in his *14. de verbo signif.* seemeth to say truly, that Prescription is an exception founded upon so long time run and past, as the law limiteth for the pursuit of any action. An example may be taken from those statutes, *anno 1. H. 8. ca. 4.* which enacteth, that in all action popular, information shall bee made within three yeares after the offence committed, or else be of no force. Of like nature is the statute, *anno 7. H. 8. ca. 3.* which in some cases maketh one yeares prescription sufficient against informations. Custome is also used for the tribute or tolle, that Merchants pay to the King for carying in and out Merchandise, *anno 14. Ed. 3. stat. 1. ca. 21.* in which signification it is latined (*Custumma*) *Register orig. fo. 138. a. 129. a.* And lastly, for such services, as tenants of a Maner owe unto their Lord: New booke of Entries, *verbo Custome.*

Customary tenents, (*tenentes per consuetudinem*) are such tenants, as hold by the custome of the Maner, as their speciall evidence. See *Copie-holds.*

Custos breviarum, is the principall Clerk belonging to the court of Common Plees: whose office is to receive and keepe all the writs, and put them upon files, every returne by it selfe, and at the end of every Terme to receive

of the protonotaries all the Records of (*Nisi prius*) called the (*postea*) For they are first brought in by the Clerk of Assise of every circuit to the Protonotary that entred the issue in that matter, for the entring of the Iudgement. And then doe the Protonotaries get of the Court peremptory day, for every party to speake what hee hath to alleage in arrest of Iudgement: which day being past, he entreth the Verdict and Iudgement thereupon into the rols of the Court: and that done, he doth in the end of the Terme deliver over to the *Custos breuiū*, all the Records of (*Nisi Prius*) which came to his hand that Terme: which received he bindeth into a bundle and bestoweth them. The *Custos breuium* also maketh entry of the Writs of covenant, and the concord upon every Fine: and maketh forth exemplifications and copies of all Writs and Records in his Office, and of all Fines levied. The Fines after they bee ingrossed, the parts thereof are divided between the *Custos breuium* and the *Chirographer*: whereof the *Chirographer* keepeth alwaies with him the Writ of covenant and the note, the *Custos breuium* keepeth the concord and the foote of the fine, upon the which foot the *Chirographer* doth cause the Proclamations to bee endorsed,

when they bee all proclaimed. This Office is in the Princes gift.

Custos placitorum corona: Bratton. li. 2. ca. 5. This seemeth to be all one with him, whom we now call (*Custos rotulorum*) of this Officer I find mention in the Writ (*odio & atia*) Regist. orig. fol. 133. b.

Custos Rotulorum, is hee, that hath the custodie of the Rols or Records of the Sessions of Peace: and (as some thinke) of the commission of the Peace it selfe. *Lamb. Eirenach. li. 4. ca. 3. pa. 373.* He is alwaies a Iustice of Peace and *Quorum*, in the Countie where hee hath his Office. *Idem, eodem.* and by his Office he is rather termed an Officer or minister then a Iudge: because the Commission of the Peace layeth, by expresse words this especiall charge upon him: *quod ad dies & loca predicta, brevia, precepto, processus, & indictamenta predicta coram te et dictis sociis tuis venire facias. Idem. eodem.* where reade a competent tract of other things belonging to this Office.

Custos of the spiritualties (*custos spiritualitatis vel spiritualium*) is he that exerciseth the Spirituall or Ecclesiasticall Iurisdiction of any Dioces, during the vacancie of the See: the appointment of whom by the Canon Lawe ap-

pertaineth to the Deane & Chapter, *ca. ad abolendam Extra. Ne sede vacante aliquid innovetur.* but with us in England to the Archbishop of the Province by prescription. Howbeit divers Deanes and Chapters (if *M. Gwin* say truely in the Preface to his Readings) doe challenge this by auncient Charters from the Kings of this Land.

Cutter of the tayles, is an officer in the Exchequer, that provideth Wood for the Tayles, and cutteth the summe paid upon them, and then casteth the same into the Court to be written upon,

D A

D *Ammage*, commeth of the French (*dam*) or (*domage*) signifying generally any hurt or hinderance that a man taketh in his estate: But in the Common Lawe, it particularly signifieth a part of that the Iurours bee to enquire of, passing for the Plaintiffe or Demaundant in a Civile action, be it personall or reall. For after verdict given of the principall cause, they are likewise asked their consciences touching costs (which bee the charges of suite, called of the Civilians (*expensæ litis*) and damages, which containe the hindrance that the Plaintiffe or

Demandant hath suffered by meanes of the wrong done to him by the Defendant or Tenant.

Dane guilt, Danegold, or Danegelt (*Danegeldum*) is compounded of (*Dane* and *gelt. i. pecunia*) and was a Tribute layde upon our Auncestors of 12 pence for every Hide of Land through the Realme by the Danes, that once got the masterie of us, in regard (as they pretended) of clearing the Seas of Pyrates, which greatly annoyed our Land in those dayes. *Cambd. Britan. 83.* with whom agree the lawes of *Edward* set out by *M. Lambend ca 11. Stowe in his annals, pag 118.* saith, that this tribute came to 40000. pounds by the yeare, and that it was released by *Edw. the Confessor. The Author of the new Termes of Law* saith, that this tribute began in the time of King *Etheldred*, who being fore distressed by the continuall inuasion of the *Dane*, to procure his peace, was compelled to charge his people with importable payments. For first he gave them at five severall payments 113000. pounds, and afterward granted them 48000. pounds yeerely. See *Roger Hoveden parte poster. suorum annalium in Henrico secundo fol 344. a.*

Dareyn continuance, See *Continuance*. *Darein* is a corrupt word of

of the French (*dernier*. 1. *ultimus*.)

Darreyn presentment (*ultima presentatio*.) See *Affise* or *Darregn presentment*.

Dates (*daetyli*) is the plumme or fruite of the tree in Latine called *palma*, in English the Date tree well knowne to most men by sight. And he that will farder vnderstand the nature or diversities of this fruite may repaire to *Gerards Herball. lib. 3. cap. 131*. They be numbred among Spices and Drugs to bee garbled. 1. *Iacob. 19*

Day (*dies*) is sometime used in the Lawe, for the day of appearance in Court, either originally, or upon assignation; and sometime for the returnes of Writs. For example, dayes in banke, be dayes set downe by Statute or order of the Court, when Writs shall bee returned, or when the partie shall appeare vpon the Writ serued. And of this you may reade the Statuts, *anno 31. H. 3. ca 1. & 2. Marlb. cap. 12. anno 52 H 3.* and the Statute *de anno bissextili. anno 21. H. 3.* and lastly *anno 32. H. 8. cap. 21*. To be dismissed without day, is to bee finally discharged the Court. *Kitchin fol. 193*. Hee had a day by the rolle. *Kitchin fol. 197*. that is, hee had a day of appearance assigned him. Day, Yeere, and waste. See *Dies, and yeare*.

Deadly feude (*feuda*) is a profession of an unquenchable hatred, untill we be revenged, even by the death of our enemy. It is deduced from the German word (*Feed*) which, as *Hotoman* saith, *in verbis feudalibus, modo bellum, modo capitales inimicitias significat*. This word is used, *anno 43. Eliz. cap. 13*.

Dead pledge (*mortuum vadium*) See *Mort gage*.

Deane, (*decanus*) is an Ecclesiasticall Magistrate, so called of the Greke (*δευς*) because hee hath power over ten *Canons* at the least. Howbeit in *England* we use to call him a *Deane*, that is next under the Bishop, and chiefe of the Chapter ordinarily in a Cathedrall Church: and the rest of the Societie or Corporation wee call *Capitulum* the Chapter. But this word how diversly it is used, read *Lindwood, titulo de iudiciis ca. pri. verbo Decani rurales*. where *Deane Rurales* are said to bee certaine persons that have certaine iurisdiction Ecclesiasticall over other Ministers and Parishes neere adioyning, assigned unto them by the Bishop and Archdeacon, being placed and displaced by them. As there bee two foundations of Cathedrall Churches in England, the old, and the new (the new be those which *Henry* the 8. vpon suppression of Abbeyes tranformed from

Abbot or Prior and Covent to Deane and Chapter) so bee there two meanes of creating these Deanes. For these of the old foundation are brought to their dignity much like Bishops: the King first sending out his *Cōgè d'sure* to the Chapter, the Chapter the chusing, the King yeelding his royall assent, and the Bishop confirming him, and giving his mandate to install him. Those of the newe foundation are by a shorter course installed by vertue of the Kings Letters Patents, without either election or confirmation. This Word is also applyed to divers that are the chiefe of certaine peculiar Churches, or Chappels, as the Deane of the Kings Chappell, the Deane of the Arches, the Deane of Saint George his Chappell in *Windsor*, the Deane of *Bocking in Essex*.

Debet & solet: These words are divers times used in the Writers of the Common Lawe, and may trouble the minde of a yong Student, except hee have some advertisement of them. For example it is said in the *Old. nat. br. fo. 98* This Writ (*de secta molendini*) being in the (*debet*) and (*solet*) is a Writ of right, &c. and againe, *fo. 69*. A Writ of (*Quod permittat*) may be pleaded in the Countie before the Sheriffe, and it may be in the (*debet*) and in the (*solet*) or the (*debet*) without

the (*solet*) according as the Demandant claimeth. wherefore note, that those Writs that bee in this sort brought, have these words in them, as formall words not to bee omitted. And according to the diversitie of the case, both (*debet*) and (*solet*) are used, or (*debet*) alone: that is, if a man sue to reconer any right by a Writ, whereof his Auncestor was disseised by the Tenant or his Auncestor, then hee useth onely the word (*debet*) in his Writ, because (*solet*) is not fit by reason his Auncestor was disseised, and the custome discontinued: but if hee sue for any thing, that is now first of all denied him, then hee useth both these words (*debet & solet*) because his Aunccestors before him, and hee himselfe usually injoyed the thing sued for: as suit to a Mill, or common of Pasture untill this present refusall of the Tenant. The like may be said of (*debet*) and (*detinet*) as appeareth by the *Regist. orig.* in the writ *de debito sol. 140. a.*

Debito, is a Writ which lieth, where a man oweth to another a certain summe of money upon an obligation or other bargaine, for any thing sold unto him. *Fitz. nat. br. fo. 119*. This writ is made sometime in the *Detinet*. and not in the *Debet*. which properly fallerh out, where a man oweth an Annuitie: or a certaine quantirie of

wheat, barley, or such like, which he refuseth to pay, *Old nat. br. fol. 75.* See *Debet & Solet.*

Denelage (*denelagia*) is the law that the Danes made here in England, out of which, and *Merchantlage*, and *West Saxonlage*, the Conquerour compounded certaine ordinances for his subjects, *Camdeni Britan. pa. 94. & pag. 183.*

Decem tales. See *Tales.*

Decies tantum, is a writ that lieth against a Iurour, which hath taken money for the giving of his verdict, called so of the effect, because it is to recover ten times so much as he tooke. It lieth also against Embracers that procure such an enquest, *anno 38. Ed. 3. ca. 13. Reg orig fol. 188. Fitzh. nat. br. fo. 171. New book of Entries. verbo Decies tantum.*

Deceit (*deceptio, fraud, dolus*) is a subtil wily shift or devise, having no other name. Hereunto may bee drawne all manner of craft, subtilty, guile, fraud, wilynesse, slightnesse, cunning, covin, collusion, practise, and offence, used to deceive another man by any meanes, which hath none other proper or particular name, but offence, *West. parte 2. symbol. titulo Indictments. sect. 68. See Co-fenig.*

Decenniers. See *Deciners.*

Deceptione, is a writ that lieth properly against him that

deceitfully doth any thing in the name of another, for one that receiveth harme or damage therby. *Fitzh. nat. br. fo. 95.* This writ is either originall or judiciall, as appeareth by the *Old nat. br. f. 50.* where you may reade the use of both. For some satisfaction, take these words of that booke: This writ of deceit, when it is originall, then it lieth in case, where deceit is made to a man by another, by which deceit hee may be disherited, or otherwise evill intreated: as it appeareth by the *Register*, &c. And when it is judiciall, then it lieth out of the Rolles of record: as in case where (*scire facias*) is sent to the Sheriffe, that hee warne a man to be before the Iustices at a certaine day, and the Sheriffe returne the writ served: whereas the said man was not warned, by which the partie that sueth the (*scire facias*) recovereth, then the party which ought to have beene warned, shall have the said writ against the Sheriffe. *The author of the termes of law, verbo Deceit,* saith that the originall writ of deceit lieth, where any deceit is done to a man by another, so that hee hath not sufficiently performed his bargaine or promise. In the writ judiciall he concurrith with the former booke. See the *Reg. orig. fo. 112.* and the *Reg. judiciall in the table, verbo Deceptione.*

Decimis solvendis pro possessionibus alienigenarum, is a writ, or Letters Patents, yet extant in the Register, which lay against those, that had ferm'd the Priors aliens lands of the King, for the Rector of the Parish, to recover his tith of them, *Register orig. fol. 179.*

Deciners, aliàs, desiners, aliàs, doziners, (decenarii) commeth of the French (*dixaine. i. decas*) ten in number, or else of (*disenier. i. decessarchus.*) It signifieth, in the ancient Monumenis of our law, such as were wont to have the oversight and checke of ten Friburges, for the maintenance of the Kings peace. And the limits or compasse of their jurisdiction was called (*decenna*) *Bracton lib. 3. tract. 2. cap. 15.* of whom you may also reade, *Fleta, lib. 1 ca. 27.* and a touch in the *Regist. orig. fol. 68. b.* These seem'd to have large authority in the Saxons time, taking knowledge of causes within their Circuit, and redressing wrongs by way of judgement, as you may reade in the lawes of King *Edward* set out by *M. Lamberd, num. 32.* In later times I find mention of these, as in *Britton, cap. 12.* who saith in the Kings person (as hee writeth his whole book) in this manner: We will, that all those which be 14. yeares old, shall make oath, that they shall be sufficient and loyall

unto us, and that they will be neither Felons, nor assenting to Felons: and wee will, that all be (*en dozeine & plevin per doziniers*) that is, professe themselves to be of this or that dozein, and make or offer surety of their behaviour by these or those doziniers: except Religious persons, Clerks, Knights, and their eldest Sons, and women. Yet the same Author in his 29. chapter, something toward the end, doth say, that all of 12. yeares old, and upward, are punishable for not comming to the Turne of the Sheriffe, except Earles, Prelates, Barons, Religious persons, and women. *Stawmsf. pl. cor. fol. 37.* out of *Fitzh.* hath these wordes: The like Law is, where the doziniers make presentment, that a Felon is taken for felonie, and delivered to the Sheriffe, &c. And *Kirchin* out of the Register, and *Britton*, saith thus: Religious persons, Clerks, Knights, or women, shall not be Deceniers, *fol. 33.* So that hereby I gather, that of later times, this word signifieth nothing but such an one, as by his oath of loyaltie to his Prince, (for surety none ordinarily findeth at these dayes) is settled in the combination or society of a Dozein. And a Dozein seemeth now to extend so farre, as every Leet extendeth: because in Leetes onely this oath is

ministred by the Steward, and taken by such as are twelve yeares old and upwards, dwelling within the compasse of the Leete where they are sworn, *Fitzb. nat. br. fol. 161. A.* The particulars of this oath you may reade in *Bracton, lib. 3. tract. 2. cap. 1. nu. 1.* in these words: *Quibus propositis* (that is, the Commission of the Iustices being read, and the cause of their comming being shewed) *debent Iusticiarii se transferre in aliquem locum secretum, & vocatis ad se quatuor vel sex, vel pluribus de maioribus de comitatu, qui dicuntur Bufores Comitatus, & ad quorum nutum dependent vota aliorum, & sic inter se tractatum habeant Iusticiarii ad invicem, & ostendant qualiter à Domino Rege & ejus concilio provisum sit quod omnes tam milites, quam alii qui sunt quindecim annorum & amplius, jurare debent, quod utlagatos, murtheres, robbatores, & burglatores non receptabunt, nec eis consentient, nec eorum receptatoribus, et si quos tales noverint, illos attachiari facient, & hoc Vicecomiti & balivis suis monstrabunt: & si hutesium vel clamorem de talibus audiverint, statim audito clamore, sequantur cum familia & hominibus de terra sua.* Heere *Bracton* setteth downe fifteene yeares for the age of those that are sworne to the Kings peace, but *lib. 3. tract. 2. cap. 11.*

num. 5. he nameth 12. yeares. See *Inlaughe* A man may note out of the Premises, diversities betwene the ancient, and these our times, in this point of law and government, as well for the age of those that are to be sworne, as also that *Decennier* is not now used for the chiefe man of a *Dozen*, but for him that is sworne to the Kings peace: and lastly, that now there are no other Dozens but Leetes, and that no man ordinarily giveth other security for the keeping of the Kings peace, but his owne oath: and that therefore none answereth for anothers transgression, but every man for himselfe. And for the generall ground this may suffice. See *Frankepledge*.

Declaration (declaratio) is properly the shewing forth, or laying out of an action personall in any suit, howbeit it is used sometime, and indifferently for both personall and real actions. For example, *anno 36. Ed. 3. cap. 15.* in these words: By the ancient termes and formes of declarations, no man shall be prejudiced: so that the matter of the action be fully shewed in the demonstration, and in the writ: See the new Termes of law. See *Comnte*.

Dedimus potestatem, is a writ, whereby commission is given to

a private man for the speeding of some act appertaining to a Iudge. The Civilians call it (*Delegationem*.) And it is granted most commonly upon suggestion that the partie, which is to doe something before a Iudge, or in Court, is so feeble, that hee cannot travell. It is used in divers cases: as to make a personall answer to a Bill of complaint in the Chancerie, to make an Atturney for the following of a suit in the Countie, Hundred, Wapentake, &c. *Old nat. br. fol. 20.* To levie a Fine, *West. par. 2. symbol. titulo Fines. sect. 112.* and divers other effects, as you may see by *Fitzh. nat. br.* in divers places noted in the *Index* of the Booke: In what diversitie of cases this writ or commission is used, see the table of the *Regist. orig. verbo. Dedimus potestatum.*

Deedes (*Faelta*) signifie in our common law writings, that containe the effect of a contract made betweene man and man, which the Civilians call (*Literarum obligationem*.) And of Deeds there be two sorts, deeds indented, and deeds poll. Which division, as *M. West.* saith *parte 1. Symbol. lib. 1. sect. 46.* groweth from the forme or fashion of them; the one being cut to the fashion of teeth in the top or side, the other being plaine. And the definition of a deed indented, hee

expresseth thus, *Sect. 47.* A deed indented, is a deed consisting of two parts, or more, in which it is expressed, that the parties to the same deed, have to every part thereof interchangeably, or severally, set their severall seales. See the rest, where at the last, hee sheweth the cause of the name: *viz.* for that consisting of more parts, each part is indented, or cut one of them into the other, that by the cut it may appeare, they belong to one businesse, or contract. A deed poll, or polled, hee describeth thus: *Sect. 46. Q.* A polled deed, is a deed testifying, that onely the one of the parties to the bargaine, hath put his seale thereunto, after the manner there by him described: which reade for your better understanding. See the new Tearmes of law, *verbo Fait*, where hee sheweth, that each deed consisteth of three points: writing, sealing, and delivery.

Deere Hayse, anno 19. H. 7. cap. 11. seemeth to be an Engine of cords, to catch Deere.

De essendo quietum de telonio, is a writ that lyeth for them which are by priviledge freed from the payment of tolle, which reade at large in *Fitzh. nat. br. fo. 226.*

Default (*Defalta*) commeth from the French (*Defant*) and is an offence, in omitting that

hich

which wee ought to doe. *West part. 2. symbol. titulo Indictment. sect. 2.* Of this hath *Bracton* a whole Tractate, *lib. 5. tractat. 3.* By whom it appeareth that a default is most notoriously taken for non appearance in Court, at a day assigned. Of this you may reade also in *Fleta. lib. 6. cap. 14.*

Defeifance (*defeifantia*) cometh of the French (*Deffaie*) or *Deffaie*) i. *infectum reddere quod factum est*, and signifieth in our Common Lawe, nothing but a condition annexed to an act, as to an obligation, a recognizance or Statute, which performed by the Obligee or Recognizee, the Act is disabled and made void, as if it never had bin done, whereof you may see *West. at large, part. 1. symb. lib. 2. Sect. 156.*

Defendant (*defendens*) is he that is sued in an action personall: as Tenant, is he which is sued in an Action reall. Termes of the Lawe.

Defendemus, is an ordinary word in a feofment or donation, and hath this force, that it bindeth the Donour and his heires, to defend the Donee, if any man goe about to lay any servitude upon the thing given, other then is contained in the donation. *Bracton lib. 2. cap. 16. num. 10.* See also *Warrantizabimus & Acquirebimus.*

Defender of the Faith (*defensor fidei*) is a peculiar Title given to the King of England by the Pope, as (*Catholicus*) to the King of Spaine, and *Christianissimus* to the French king. It was first given by *Leo decimus* to King *Henry* the 8. for writing against *Martin Luther*, in the behalfe of the Church of Rome, then accounted, *Domicilium fidei Catholicae.* *Stowes annals pag 863.*

Deforfour (*deforciator*) cometh of the French (*Forceur. i. expugnator.*) It is used in our common Law, for one that overcommeth and casteth out by force, and differeth from disseifour first in this, because a man may disseife another without force, which act is called simple disseisin. *Britton. cap. 53.* next, because a man may deforce another, that never was in possession: as for example, if more have right to lands, as common heires and one entring keepeth out the rest, the Law saith, that hee deforceth them, though hee doe not disseife them. *Old. nat. br. fol. 118.* and *Littleton* in his Chapter (*Discontinuance*) fol. 117. saith, that he which is enfeoffed by the Tenant in taile, and put in possession, by keeping out the Heire of him in reversion being dead, doth deforce him, though he did not disseife him; because hee entred, when the Tenant in taile

was living, and the heire had no present right, And a Deforfor differeth from an intrudour, because a man is made an Intrudour by a wrongfull entry onely into lande or tenement voide of a possessor. *Bracton. lib. 4. ca. pri.* and a deforfour is also by houlding out the right heire, as is above saide.

Deliverances. See *Repligare*:

Demaund, (*demanda vel demandum*) commeth of the French (*Demande, i. postulatio, postulatus*) and signifieth a calling upon a man for any thing due. It hath likewise a proper signification with the common Lawyers opposite to plaint. For the pursuite of all civill actions are either demands or plaints: and the persuer is called Demaundant or Plaintife: *Viz.* Demaundant in actions reall, and Plaintife in personall. And where the partie persuing is called Demaundant, there the partie persued is called tenant: where Plaintife, there defendant. See *Termes of Law, verbo Demandant.*

Demy haque, See *Haque*, and *Haquebut*.

Demaine, (*Dominicum*) is a French word, otherwise written (*Domaine*) and signifieth (*Patrimonium domini*) as *Hotoman* saith, *in verbis feudalibus. verbo Dominicu*, where by divers authorities hee proveth those Lands to bee

dominicum, which a man holdeth originally of himselfe and those to be *feodum*, which hee holdeth by the benefite of a superiour Lord. And I finde in the Civill Law (*Rem dominicam*) for that which is proper to the Emperor. *Cod. Ne rei dominica vel templorum vindicatio temporis prescriptione submoveatur*, being the 38. title of the 7. booke. And (*Res dominici iuris. i. reipub.*) in the same place. And by the word (*Domanium*) or (*Demanium*) are properly signified the Kings lands in *Fraunce*, appertaining to him in propriety, *Quia Domanium definitur illud, quod nominatim consecratum est, unitum & incorporatum Regie corone, ut scripsit Ghöpinus de domanio Francia tit. 2. per legem. Si quando 3. Cod. de bon. vacan. lib. 10. & Mathæus de Afflictis in const. Sicilia. li. 1. tit. De locatione Demanii. 82.* which may be called, *Bona incorporata & in corpus fisci redacta*, *Skene de verborum signif. verb. Terra Dominicales*, In like manner doe we use it in *England*: howbeit we here have no land (the Crowne land onely excepted) which holdeth not of a Superior. For all dependeth either mediately or immediately of the Crowne, that is, of some honour or other belonging to the Crowne, and not graunted in fee to any inferiour person. Wherefore no common person

hath

hath any demaines, simply understood. For when a man in pleading, would signifie his land to be his owne, he saith, that he is or was seised thereof in his demaine as of fee. *Littleton, li. 1. cap. 1.* Whereby hee signifieth, that though his land be to him and his heires for ever, yet it is not true demaine, but depending upon a superior Lord, and holding by service, or rent in lieu of service, or by both service and rent: Yet I find these words used in the Kings right, *anno 37. H. 8. cap. 16. and 39. Eliz. cap. 22.* But the application of this speech to the King and Crowne land, is crept in by error and ignorance of the word (*Fee*) or at least, by understanding it otherwise then of the Feudists it is taken. But *Britton cap. 78.* sheweth, that this word (*domeyne*) is diversly taken: sometime more largely, as of lands or tenements held for life, &c. and sometime more strictly as for such onely as are generally held in fee. This word sometime is used for a distinction betweene those lands, that the Lord of a Maner hath in his owne hands, or in the hands of his Lessee, dimised upon a rent for tearme of yeares or life, and such other land appertaining to the said Maner, which belongeth to free, or copy-holders. Howbeit, the copy-hold belonging to any Ma-

ner, is also in the opinion of many good Lawyers accounted *Demaines*, *Bracton* in his fourth Booke, *tract. 3. ca. 9. nu. 5.* hath these words: *Item dominicum accipitur multipliciter. Est autem dominicum quod quis habet ad mensam suam & proprie, sicut sunt Bordlands anglie. Item dicitur dominicum villenagium, quod traditur villanis, quod quis tempestive & intempestive sumere possit pro voluntate sua, & revocare.* Of this *Fleta* likewise thus writeth: *Dominicum est multiplex. Est autem Dominicum proprie terra ad mensam assignata, & villenagium quod traditur villanis ad excolendum, & terra precario dimissa, que tempestive & pro voluntate domini poterit revocari: & sicut est de terra commissa, tenenda quam diu commissorii placuerit, poterit & dici Dominicum, de quo quis habet liberum tenementum, & alius usufructum: & etiam ubi quis habet liberum tenementum, & alius curam, sicut de custode dici poterit & curatore; et unde unus dicitur à jure, alius quoque ab homine. Dominicum etiam dicitur ad differentiam ejus quod tenetur in servitio. Dominicum est omne illud tenementum, de quo antecessor obiit seiscitus ut de fendo, nec refert cum usufructu vel sine, et de quo si ejectus esset, si viveret, recuperare posset per assisam nomine disseisina, licet alius haberet usum*

fructum: sicut dici poterit de illis qui tenent in villenagio, qui utuntur, fruuntur non nomine proprio sed nomine Domini sui. Flet. l. 5. c. 5. §. Dominicum autē. And the reason why Copyhold is accounted Demeanes, is because they that be tenants unto it, are judged, in law, to have no other right, but at the will of the Lord. So that it is reputed still after a sort to be in the Lords hands. And yet in common speech, that is called ordinarily Demeanes, which is neither free nor copy. It is farther to be noted, that Demaine is sometime used in a more speciall signification, and is opposite to Franck fee. For example, those lands, which were in the possession of King Edward the Confessour, are called Ancient Demaine, and all others be called Franck fee. *Kitchin. fol. 98.* And the tenants which hold any of those lands, be called tenants in Ancient Demaine, the others tenants in Franck fee. *Kitchin ubi supra.* And also tenants of the common law, *Westm parte 2. Symbol. titulo Fines. Sect. 25.* The reason is, because tenants in Ancient Demaine, cannot be sued out of the Lords court: Termes of the Law. *verbo Ancient Demaine.* And the tenants in Ancient Demaine, though they hold all by the verge, and have none other evidence, but copy of Court

rolle, yet they are said to have Free hold, *Kitchin. fol. 81.* See *Ancient Demaine.*

Demaine cart of an Abbot, seemeth to be that Cart, which the Abbot useth upon his owne *Demaine.* Anno 6. H. 3. cap. 21.

Demurrer (demorare) cometh of the French (*demeurer. i. manere in aliquo loco vel morari*) It signifieth in our common law, a kind of pause upon a point of difficultie in any action, and is used substantively. For in every action, the controversie consisteth either in the fact, or in the law: If in the fact, that is tried by the Iurie; if in law, then is the case plaine to the Iudge; or so hard and rare, as it breedeth just doubt. I call that plaine to the Iudge, wherein hee is assured of the law, though perhaps the partie and his counsell yield not unto it. And in such, the Iudge with his Associates proceedeth to Iudgement without farther worke: but when it is doubtfull to him and his Associates, then is there stay made, and a time taken, either for the Court to thinke farther upon it, and to agree if they can: or else for all the Iustices to meet together in the Chequer chamber, and upon hearing of that which the Sergeants shall say of both parts, to advise, and set downe what is law. And whatsoever they conclude,

clude, standeth firme without farther remedie, *Smith, de Repub. Anglo lib. 2. cap. 13. West.* calleth it a *Demurrer* in Chancery likewise, when there is question made whether a parties answer to a Bill of Complaint, &c. be defective or not: and thercof reference made to any of the Bench, for the examination thereof, and report to bee made to the court, *parte 2. symb. tit. Chancery. Sect. 29.*

Denariata terra. See *Fardingdeale of land.*

Denizen. commeth of the French (*donaison. i. donatio.*) And signifieth in our common law, an *Alein* that is enfranchised here in England by the Princes Charter, and enabled, almost in all respects, to doe as the Kings native subjects doe, namely to purchase, and to possesse lands, to be capable of any office or dignitie. Yet it is said to be short of naturalisation, because a stranger naturalised, may inherit lands by descent, which a man made, onely a Denizen cannot. And againe, in the Charter whereby a man is made Denizen, there is commonly contained some one clause or other, that abridgeth him of that full benefit, which naturall subjects doe enjoy. And when a man is thus enfranchised, hee is said to bee under the Kings protection; or, *Effe ad fidem*

Regis Anglia, before which time hee can injoy nothing in England. *Bracton, lib. 5. tract. 5. cap. 25. nu. 3.* Nay, hee and his goods might be seised to the Kings use, *Horn in his mirroar of Iustices, lib. 1. cap. de la Venue de franc plege.*

Deodand (deodandum) is a thing given or forfeited (as it were) to God for the pacification of his wrath in a case of misadventure, whereby any Christian soule commeth to a violent end, without the fault of any reasonable Creature. For example, if a horse should strike his keeper, and so kill him: If a man in driving a cart, and seeking to redresse any thing about it, should so fall, as the cart wheele running over him, should presse him to death: If one should be felling of a tree, and giving warning to company by, when the tree were neere falling, to looke to themselves, and any of them should be slaine nevertheless by the fall of the tree. In the first of these cases, the horse: in the second, the cart wheele, cart and horses: and in the third, the tree is to be given to God: that is, to be sold and distributed to the Poore, for an expiation of this dreadfull event, though effected by unreasonable, yea, senselesse and dead creatures.

Stannf. pl. cor. lib. 1. ca. 2. whereof

also read *Bracton, lib. 3. tract. 2. cap. 5.* and *Britton, cap. 7.* and *West. parte 2. symbaleog. titulo Indictments. Sect. 49.* And though this be given to God: yet is it forfeited to the King by law, as sustaining Gods person, and an executioner in this case, to see the price of these distributed to the Poore, for the appeasing of God, stirred up even against the earth and place, by the shedding of innocent blood thereupon. *Fleta* saith that this is sould, and the price distributed to the poore, for the soule of the King, his Auncesters, and all faithfull people departed this life. *lib. 1. cap. 25. verbo. De submersis.* And it seemeth that this law hath an imitation of that in *Exodus, cap. 21. Si cornu perierit bos virum vel mulierem, ita ut moriatur, lapidabitur bos, neq; comedatur caro ejus, at Dominus ejus erit innocens.*

De Deoneranda pro rata portio- nis, is a writ that lieth where one is distrained for a rent, that ought to be paid by others proportionally with him. For example, a man holdeth ten Oxegangs of land by fealty, and ten Shillings rent of the King, and alienateth one Oxegang thereof to one, another to another in fee. Afterward the Sheriff or other officer commeth, and distraineth onely one of them for the rent:

hee that is distrained may have this writ for his helpe. *Fitzh. nat. br. fol. 234.*

Departer, is a word properly used of him, that first pleading one thing in barre of an action, and being replied thereunto, doth in his rejoinder, shew another matter contrary to his first plea. *Plowden in Reniger.* and *Fogassa, fo. 7. & 8.* And of this see divers examples in *Broke, titulo Departes de son plee, &c.*

Departers of Gold and Silver. See *Finours.*

De quibus sur disseisin, is a writ of entry. See *Fitzh. nat. br. fol. 191. C.*

Dereyne (*disrationare, vel dirationare*) may seeme to come of the French (*disarroyer. i. confunder, turbare*) to confound or turne out of order, or (*desranger. i. to set out of order*, or lastly of the Norman word (*desrene*) for with the Normans (*desrene*) is nothing else but a proofof the deniall of a mans owne fact. For *Rubigenus* in his *grand custumarie. cap. 122, & 123.* maketh mention of (*lex probabilis*) and (*lex deraisnia*) *legem probabilem* or (*probationem*) hee defineth to be a proofof a mans owne fact, which he saith he hath done, and his adversary denieth. His example is this: *A. sueth R. for a Hog: saying, thou shouldest deliver me a Hog for two shillings:*

fixe pence: which money *F.* paid thee: wherefore I demand my Hog. *R.* answereth: It is true that thou sayest, and I delivered thee thy Hog, which I am ready to prove. *Deraignian* he defineth, to be a prooffe of a thing that one denieth to be done by himselfe; which his adversarie saith was done, defeating or confounding his adversaries Assertion (as you would say) and shewing it to be without, and against reason or likelihood, which is avouched. In our common law it is used diversly, first generally, for to prove: as *Dirationabit ius suum heres propinquior. Glauvil. li. 2. cap. 6.* and *Habeo probos homines, qui hoc viderunt & audierunt, & parati sunt hoc dirationare. Idem lib. 4. cap. 6.* and (*Dirationabit terram illam in curia mea*) *Idem lib. 3. cap. 20. i.* hee proved that land to be his owne, &c. And (*pertinentiam eam dirationavit in vita sua, vel alio modo iuste perquisivit*) *Idem, lib. 6. cap. 12.* and *Bracton* useth it after the same sort, in these words: *Habeo sufficientem disratiocinationem & probationem. lib. 4. tract. 6. cap. 16.* and so hee useth (*disratiocinare*) *lib. 4. cap. 22.* and so in *Westm. 2. anno 13. Ed. pri. cap. 32.* and to decree the warrantie *Old nat. br. fo. 146.* and to decree the warranty Paramount, *an. 31. H. 8. ca. primo.* And *deraigner le Warranty in*

Plowd. casu Basset in fine 2. partis fo. 6, 7, & 8. a. hath the same signification. So it is used, *Westm. 2. cap. 5. anno 13. Ed. 1.* in these words: And when the person of any Church is disturbed to demand Tithes in the next Parish, by a writ of (*Indicavit*) the patron of the Parson so disturbed to demand Tithes, shall have a writ, to demand the Advowfen of the Tithes, being in demand: and when it is deraigned, then shall the plee passe in the Court Christian, as farre forth as it is deraigned in the Kings Court. *Bracton* also, *lib. 3. tract. 2. cap. 13. num. 1.* speaking of him that appealeth another for any Treason or Felony, hath these words: *Proponat accusans appellum suum in hunc modum, sc: debet dicere se interfuisse, & vidisse, certo loco, certo die, certa hora, & scivisse ipsum accusatum prolocutum fuisse mortem regis, vel seditionem suam, vel exercitum sui, vel consensisse, vel auxilium & consilium impendisse, vel ad hoc auctoritatem prastitisse: & hoc ego juxta considerationem curie disratiocinare paratus sum.* He useth it likewise as the Normans use, (*Disraigniam*) for him, that offereth to justifie his deniall: as *lib. 3. tract. 2. cap. 28. nu. 1.* in these words: *Rex consilio Episcopi & bonorum misit propter comitem, ut statuto die veniret ad curiam, ad disratiocandum vel defendendum, se,*

se, si posset. Lastly, in some places I find the substantive (*dereinement*) used in the very literall signification of the French (*disfrayer*) or (*desfranger*) that is, as a man would say, turning out of course, displacing or setting out of order: as *dereinement* or departure out of Religion, *anno 31. H. 8. cap. 6.* and dereinment or discharge of their profession, *anno 33 H. 8. cap. 29.* which is spoken of those Religious men, that forsooke their orders and professions: as also *anno 5, & 6. Ed. 6. cap. 13.* So doth *Kitchin* use the verb, *fo. 152.* in these words: The Leasse entred into Religion, and afterward is dereigned. And *Britton* useth these words (*Semouise desrenable*) for a summons that may be chalenged as defective, or not lawfully made, *cap. 21.* Of this you may reade something more in *Skene de verb. signif. verbo Disrationare*, where in one signification hee confoundeth it with our waging and making of law.

De son tort demesne, seeme to be certaine words of forme in an action of trespassse, used by way of reply to the plee of the Defendant. For example: *A.* sueth *B.* in action of trespassse. *B.* answereth for himselfe, that he did that which *A.* calleth a trespassse, by the commandement of *C.* his Master. *A.* saith againe, that *B.*

did it *de son tort demesne, sans ceoque.* *C.* *lui comanda modo & forma:* that is, *B.* did it of his owne wrong, without that that *C.* commanded him in such forme, &c.

Detinet. See *Debito* and *Debet.*

Detinew (*detinendo*) is a writ that lyeth against him, who having goods or chatels delivered him to keepe, refuseth to deliver them againe. See of this *Fitzh, nat. br, fol. 138.* To this is answerable in some sort (*actio depositi*) in the civill law. And hee taketh his action of detinue, that intendeth to recover the thing delivered, and not the damages sustained by the detinew. *Kitchin, fol. 176.* See the new booke of Entries, *verbo, Detinew.*

Devastaverunt bona testatoris, is a writ lying against Executors, for paying Legacies and Debts without specialties, to the prejudice of the creditours that have specialties, before the debts upon the said specialties be due. For in this case, the Executors are as liable to action, as if they had wasted the goods of the Testatour riotously or without cause. New termes of law.

Devest (*dovestire*) is contrary to Invest. For as Investire signifieth *possessionem tradere.* So (*dovestire*) i. (*possessionem auferre*) *feud. lib.*

libro primo cap. 7.

Devise, alias, diuise, cometh of the French (*diviser*, i. *dispartiri, discernere, separare, distinguere*) as (*diviser par ci & par la, distribuer.*) This word is properly attributed in our Common Lawe to him, that bequethes his goods by his last Will or Testament in writing: and the reason is, because those that now appertaine onely to the *Deviseur*, by this act are distributed into many parts. Wherefore I thinke it better written *diuise* then *devise*, howbeit it were not absurd, to derive this word from the French (*diviser*) i. *sermocinari, fabulari, consilium conferre.* For in this sense it agreeth in some sort with the nature of the act of the Testator, and with the Etymology of a Testament set downe by *Iustinian*, who saith, that *testamentum* is (*quasi mentis testatio, titulo, de testa. ordinan. in institut.* and *testatio mentis* cannot be so well, as by talke and conference with our wise and skillfull friends.

Devoires of Cales, anno 2. R. 2. Stat. 1. cap. 3. & anno 5. eiusdem, Stat. 2. cap. 2. were the customes due to the King for Merchandize brought to or carried out from *Cales*, when our Stable was there. The word is French, signifying as much as (*officium*) dutie.

Devorce, alias, divorce (*divortium*) is with our Common Lawyers, accompted that separation betweene two *de facto* married together, which is *a vinculo matrimonii, non solum a mensa & thoro.* And therefore the woman so divorced, received all againe that she brought with her. This is not, but onely upon a nullitie of the mariage through some essentiall impediment, as consanguinitie or affinitie within the degrees forbidden, precontract, impotence, or such like. See the newe Tearmes of Law.

Diem clausit extremum, is a Writ that lyeth for the Heire of him that holdeth Land of the Crowne, either by Knights service, or in soccage, and dyeth, be he vnder or at full age, directed to the Escheatour of the County for inquirie to bee made by him, of what estate the partie deceased was seised, and who is next heire unto him, and of what value the Land is. The forme thereof and other circumstances you may learne in *Fuzh. nat. br. fol. 251.*

Dyer, was a learned Lawyer, and Lord Chiefe Iustice of the Common Pleees, in the daies of *Queene Elizabeth*: who writ a Booke of great account, called his *Commentaries* or *Reports*.

Dies datus, is a respight given to the Tenant or Defendant be-

fore the Court. *Brooke titulo Continuance.*

Dicker of Leather, is a quantitie consisting of tenne hides. The name may seeme to come from the Greeke (*decas*) which is also a Latine word signifying tenne in number.

Dignity Ecclesiasticall (*dignitas Ecclesiastica*) is mentioned in the statute anno 26. H. 8. cap. 3. and is by the Canonists defined to be (*administratio cum iurisdictione & potestate aliqua conjuncta. Glos. in. ca. 1. de consuet. in sexto.*) whereof you may read divers examples in *Duarenus de sacris Eccles. ministr. & benefic. lib. 2. cap. 6.*

Dioces (*diocesis*) is a Greeke word compounded of (*dia*) and (*oikos*), and signifieth with vs, the circuit of every Bishops jurisdiction. For this Realme hath two sorts of divisions, one into Shires or Counties, in respect of temporall policie, another into Diocesses in respect of jurisdiction Ecclesiasticall.

Dieta rationabilis, is in *Bracton* vsed for a reasonable daies journey. *lib. 3. parte 2. cap. 16.* It hath in the Civile Law divers others significations, not needefull heere to be set downe. *v. vocab. v. iur. f. que juris.*

Dimihague. See *Hague.*

Disalt, signifieth as much as to disable. *Luteton* in his Chapter of *Discontinuance.*

Disceite, See *Deceit* and *deceptione*. See the new Booke of *Entrie*, verbo *Disceit*.

Discent, (*Discensus*) in the French (*Descente*) signifieth in the Common Law, an order or meanes whereby Lands or Tenements are derived unto any man from his Ancestors: as to make his discent from his Ancestours: *Old nat. br. fo. 101.* isto shew how and by what degrees, the Land in question came to him from his Ancestours: as first from his great Grandfather to his Grandfather, from his Grandfather to his Father, and so to him. Or in such other like sort: This discent is either lineall or collaterall. Lineall discent is conveyed downward in a right line from the Grandfather, to the Father, and from the Father to the Sonne, and from the Sonne to the Nephew, &c. Collaterall discent is springing out of the side of the whole blood: as Grandfathers brother, Fathers brother, &c. See the new *Termes of Law*.

Disclamer, (*Disclamium*) is a plee containing an expresse deniall or refusall: as if the tenant sue a *Replevin* vpon a *Distresse* taken by the Lord, and the Lord avow the taking of the distresse, saying that hee holdeth of him as of his Lord, and that hee disclaimed for rent not paid, or service not performed: the the

Tenant

Tenant denying himselfe to hold of such Lord, is said to disclaime: and the Lord proving the Tenant to hold of him, the Tenant leeseeth his Land. Termes of Law. Of this see *Skene de verb. signif. verbo Disclamation*. Also if a man deny himselfe to be of the blood or kindred of another in his plea, he is said to disclaime his blood: *Fitzh nat. br. fol. 197. G. See Brooke titulo Disclaimer*. If a man arraigned of Felony doe disclaime goods, being cleared hee leeseeth them. *Stawf. pl. cor. fol. 186*. See the new booke of Entries. *verbo, Disclaimer*.

Discontinuance, (*Discontinuation*) commeth of the French (*Discontinuer*). i. *cessare, intermittere*) and signifieth in the Common Law, nothing else but an interruption or breaking off: as discontinuance of possession, or discontinuance of proces. And the large discourse that *Littleton* hath about this (*Discontinuance*) is rather to shew cases wherein it is or wherein it is not, then to define the thing. The effect of discontinuance of possession is this, that a man may not enter upon his owne Land or Tenement alienated, whatsoever his right bee vnto it, of his owne selfe, or by his owne authoritie, but must bring his Writ, and seeke to recover possession by Law. Examples you may have store in his Termes

of Law, *verbo Discontinuance*. And in *Littleton eodem capite*, with whom agreeth another in these words: But discontinuance of Possession is indeede an impediment to a man for entering into his owne Land or Tenements, caused by the fact of one, that alienated them contrary to right, and gave Livery and Seisin of them, whereby the true owner is left onely to his action. See the new Termes of Law, and the Institutes of the Common Law, *cap. 43.* and see *S. Ed. Cokes Reports, l. 3.* the Case of *Fines, fol. 85. b.* The effect of discontinuance of plea is, that the instance is fallen, and may not bee taken up againe, but by a new Writ to begin the Suit afresh. For to be discontinued, and to be put without day, is all one; and nothing else, but finally to bee dismissed the Court of that instance. *West. parte 2. Symbol. tit. Fines. sect. 115.* So *Crompton* in his divers Iurisdiccions, *fol. 131.* useth it in these words: If a Iustice seate be discontinued by the not comming of the Iustices, the King may renewe the same by his Writ, &c. In this signification *Fitzh.* in his *nat. br.* useth the word divers times: as discontinuance of a corody, *fol. 193.* *A.* To discontinue the right of his wife, *fol. 191. L. & 193. L.* *Discontinuance* of an assise, *fo. 182 D. 187. B.*

Disgrading, (*Degradatio*) is the punishment of a Clerke, that being delivered to his Ordinarie, cannot purge himselfe of the offence, whereof hee was convicted by the Iury: and is nothing but the deprivation of him from those orders of Clerkship that hee had, as Priesthood, Deaconship, &c. *Stamf. pl. cor. fol. 130. & 138.* There is likewise disgrading of a Knight, *Stowes Annals pag. 865.* And it is not to be omitted, that by the Canon Law, there bee two sorts of disgrading: one summary by word onely, and another solemne by devesting the party degraded of those Ornaments and Rites, which be the ensignes of his Order or Degree.

Dismes, (*Decima*) is made of the French (*Decimes*) and signifieth tithe or the tenth part of all the fruites, either of the earth, or beastes, or our labour, due unto God, and so consequently to him that is of the Lords lot, and hath his share: *viz:* our Pastour. It signifieth also the tenthes of all Spiritual livings, yerely given to the Prince (called a perpetuall *Disme. anno. 2. & 3. Edwar. 6. cap. 35.*) which in ancient times, were paid to the Pope, vntill Pope *Urbanus* gave them to *Richard* the second, to aide him against *Charles* the French king, and those other that upheld Cle-

ment the seventh against him. *Polidor Virgil. Angl. hist. lib. 20.* Lastly, it signifieth a tribute levied of the Temporalty. *Holinshed in Henry 2. fol. 111.*

Disparigement, *Disparagatio*, is by our Common Lawyers, used especially for matching an heire in marriage vnder his or her degree, or against decencie. See my *Institutes, titulo de nuptiis. §. 6.*

Disseisin (*Disseisina*) commeth of the French (*Disseisir*) and signifieth in the Common Lawe, an vnlawfull dispossessing of a man of his land, tenement or other immoveable or incorporeall right, *Institut. of the Com. Lawe cap. 15.* And how farre this extendeth, See *Bracton, libro quarto, cap. tertio.* And therefore the Assises bee called Writs of disseisin, thar lye against disseisours in any case, whereof some bee termed little Writs of disseisin, being *viconiel*, that is, sueable before the Sherriffe in the County Court, *Old. nat. br. fol. 109.* because they are determined by the Shyreewe without assise. *Register Original. fol. 198. b.* as for Nuisances of no great preiudice. *Disseisin* is of two sorts; either simple disseisin, committed by day without force and armes. *Bracton. li. 4. ca. 4. Britton. cap. 42. & 43. & 44.* where you shall finde in what especially it is lawful, in what not *Britton. cap. 53.* And *Disseisin* by force

force, for the which see *Defer-sour*. See *Fresh disseisin*. See *Redisseisin*. and *Post disseisin*. See *Skene de verbo. signif. verbo dissaisina*. *Disseisin* how many waies it is committed. See *Fleta, li. 4. ca. 1. §. Fit autem, &c.* and when it is lawfull, *cap. 2*.

Distresse. (*districcio districtus*) commeth of the french (*distresse, angustia*.) It signifieth most commonly in the common law, a compulsion in certaine reall actions, whereby to bring a man to appearance in Court, or to pay debt or dutie denied. The effect whereof most commonly is, to drive the party distreined to replevie the distresse, and so to take his action of trespassse against the distreiner, or else to compound neighbourly with him for the debt or dutie, for the which hee distreineth. In what cases a distresse is lawfull, see *The new termes of law*. The Civilians call it (*pignorum captionem*) *Brissonus de verbo signif. lib. 14*. This compulsion is by *Britton, ca. 71*. divided into a distresse personall, and distresse reall: distresse personall, is made by surprising a mans moveable goods, and detaining them for the security of his appearance to the suit, and to make him Plaintiff. A distresse reall, is made upon immoveable goods, as the *Grand Cape & Petit Cape*. And thus it is interpreted

by *Hotoman de verb. feudal. verbo districtus*. This differeth from an Attachement in this point (among others) that a Distresse cannot be taken by any common person, without the compasse of his owne fee, *Fitzb. nat. br. fol. 904*. except it be presently after the cattell or other thing, is driven or borne out of the ground by him that perceiveth it to be in danger to be distreined. *New termes of the law. verbo distresse*.

Districtus, is sometime used for the circuit or territory within the which, a man may be thus compelled to appearance, *Ca. ne Romani. de electione in Clem.* and *Cassan. de consuetud. Burgund. pa. 90*. *Britton, ca. 120*. and so likewise is *Districtio* in the Register originall. *fol. 6. b.* And so it seemeth to be used in *Pupilla oculi. par. 5. c. 22*. *Charta de foresta*. See also *Mynsing*. in the chapter, *licet causam. 9. extra de probationibus. nu. 5. & Zasius* in his *16. counsell. nu. 47*. Distresse, in the former signification, is divided first into finite and infinite. Finite is that which is limited by law, how often it shall be made to bring the party to triall of the action, as once, twice. *Old nat. br. fo 43*. Distresse infinite is without limitation until the party come: as against a Iurie that refuseth to appeare *super certificatione Assisa*,

the proceſſe is a (*venire facias*) (*habeas corpora*) and diſtreſſe infinite, *Old nat. br. fol. 113.* Then it is divided into a grand diſtreſſe, *anno 52. H. 3. ca. 7.* which *Fitzherbert* calleth in Latine *magnam diſtriſtionem, nat. br. fol. 126. c. 1.* and an ordinary diſtreſſe. A grand diſtreſſe is that, which is made of all the goods and chattels that the party hath within the Countie, *Briſton, cap. 26. fol. 52.* But ſee whether it be ſometime not all one with a diſtreſſe infinite, *Idem. fol. 80.* with whom alſo the ſtatute of *Marlebridge* ſeemeth to agree, *anno 52. H. 3. ca. 7. & cap. 9. & cap. 12.* See *Old nat. brev. fol. 71. b.* See grand diſtreſſe, what things be diſtreinable, and for what cauſes. See the *New Termes of law. verbo Diſtreſſe.* Of this alſo ſee more in *Attachement.*

Diſtringas, is a writ directed to the Sheriffe, or any other officer, commanding him to diſtreine one for a debt to the King, &c. or for his appearance at a day. See great diverſitie of this writ in the table of the Register judiciall, *verbo Diſtringas.*

Diviſe. See *Devife.*

Dividends in the Exchequer, ſeemeth to be one part of an Indenture, *anno 10. Ed. 1. ca. 11. & anno 28. ejusdem. Stat. 3. ca. 2.*

Divorce. See *Devorce.*

Docket, is a Brieffe in writing,

anno 2. & 3. Ph. & Mar. cap. 6. *Weſt* writeth it (*Dogget*) by whom, it ſeemeth to be ſome ſmall piece of paper or parchment, containing the effect of a larger writing, *Symbol. parte 2. titulo Fines. Sect. 106.*

Doctor and Student, is a Book containing certaine Dialogues, betweene a D. of Divinitie, and a Student at the Common Law, wherein are contained queſtions and caſes, as well of the equitie and conſcience uſed in the common Law, as alſo a Compariſon of the Civill, Canon, and Common Law together, very worthy the reading. The Author is ſaid by D. *Cofin* in his Apologie, to be a Gentleman, called *Saint German.* The Booke was written in the daies of *H. 8.*

To doe law, (*facere legem*) is as much as to make law, *an. 23. H. 6. ca. 14.* See *Make.*

Dog draw, is a manifeſt apprehenſion of an offender againſt veniſon in the Foreſt. There be foure of theſe noted by *M. Manwood*, parte 2. of his Foreſt lawes, *ca. 18. n. 9. viz. Stable ſtand, Dog draw, Back beare, and Bloodie hand.* *Dog draw*, is when one is found drawing after a Deere, by the ſent of a Hound, that hee lea- deth in his hand.

Dogger a kind of Ship, *an. 31. Ed. 3. Stat. 3. cap. pri.*

Doggerfiſh, *ibid. c. 2.* ſeemeth to

be Fish brought in those Ships to *Blackney haven*, &c. *Doggermen*, anno 2. *H. 8. ca. 4.*

Dogget. See *Docket.*

Domo reparanda, is a writ that lyeth for one against his neighbour, by the fall of whose house hee feareth hurt toward his owne house, *Reg. orig. fol. 153.* for this point. The Civilians have the action *de damno infecto.*

Dole fish, seemeth to be that Fish, which the Fishermen, yearly imployed in the North Seas, doe of custome receive for their allowance. See the statute, *an. 35. H. 8. cap. 7.*

Donative, is a Benefice meerly given and collated by the Patron to a man, without either presentation to the Ordinary, or Institution by the Ordinary, or Induction by his commandement, *Fitzh. nat. br. fol. 35. E.* See the statute, anno 8. *R. 2. cap. 4.* Of this *Petr. Gregor. de beneficiis, cap. 11. nu. 10.* hath these words: *Si tamen Capellania fundata per Laicos non fuerint à Diocesano approbata, & ut loquuntur spiritualizata, non censentur beneficia, nec ab Episcopo conferri possunt, sed sunt sub pia dispositione fundatoris.* *Joh. Fab. ad 8. Nullius. De rerum divis: Ideo fundatores & haeredes eorum, possunt tales Capellanas donare sine Episcopo, cui voluerint, tanquam profana beneficia.* *Guido Papas descis. 187.* See also *Gregorius lib. 15. cap. 29.*

sui syntagmatis, nu. 11. I find in the Preface of *M. Gwins* readings, that as the King might of ancient times found a free Chappell, and exempt it from the jurisdiction of the Diocesan: so hee might also by his Letters Patents license a common person, to found such a Chappell, and to ordaine, that it shall be Donative and not presentable, and that the Chaplaine shall be depriveable by the founder and his heires, and not by the Bishop. And this is likest to be the originall of these *Donatives in England.* *Fitzh.* saith, that there be certaine Chauntries, which a man may give by his Letters Patents, *nat. br. fol. 33. C.* See him also, *fol. 42. B.* All Bishopricks were Donative by the King, *Coke lib. 3. fol. 75. b.*

Doomes day. (*Rotulus Wintonia domus Dei.* *Coke in prefatione ad librum suum*) is a booke that was made in King *Ed.* the Confessors dayes, as the Author of the *Old nat. br.* saith *f. 15.* containing in it not onely all the lands through *England*, but also all the names of those, in whose hands they were at that time, when the book was made. *M. Lamberd* in his explication of Saxon words (*verbo, Ius Dacorum, &c.*) proveth out of *Gervasius Tilburienfis*, that this Booke was made in *William* the Conquerors time: with whom agreeth *M. Camden* in his

his *Britan.* pag. 94. proving it out of *Ingulphus*, that flourished the same time. And for the better commendation of the Booke, it is not amisse to set downe the words of *Ingulphus*, touching the contents thereof. *Totam terram descripsit. Nec erat hyda in tota Anglia, quin valorem ejus & possessorem scivit, nec lacus nec lacus aliquis, quin in Regis rotulo extitit descriptus, ac ejus redditus & proventus, ipsa possessio, & ejus possessor regia notitia manifestatus, juxta taxatorum fidem qui electi de qualibet patria territorium proprium describebant. Iste rotulus vocatus est Rotulus Wintonie, & ab Anglis pro sua generalitate, quod omnia tenementa totius terra continuit (Domesday) cognominatur.* So it is called in the statute, anno *pri. Ric. 2. cap. 6.* And in *Ockhams lucubrations de fisci Regis ratione*, which seemeth to be taken out of the Booke called (*Liber rubens*) in the Exchequer. It is termed (*Liber Indicatorius*) and the reason why, *quia in eo totius Regni descriptio diligens continetur: et tam de tempore Regis Edwardi, quam de tempore Regis Willielmi, sub quo factus est, singulorum fundorum valentia exprimitur.*

Dorture (*dormitorium*) anno 25. H. 8. ca. 11. is the common roome, place or chamber, where all the Friers of one covent slept, and lay all night.

Dote assignanda, is a writ that lieth for a Widow, where it is found by office, that the Kings tenent was seised of tenements in fee, or fee taile, at the day of his death, &c. and that hee holdeth of the King in chiefe, &c. For in this case the Widow cometh into the Chancerie, and there maketh oath, that shee will not mary without the Kings leave, anno 15. Ed. 3. cap. 4. and hereupon she shall have this writ to the Escheatour; for which, see the Register originall, fol. 297. and *Fitzh. nat. br. fol. 263.* And this sort of Widowes is called the Kings Widow. See *Widom.*

Dote unde nihil habet, is a writ of Dower, that lieth for the Widow against the tenent, which hath bought land of her Husband in his life time, whereof hee was seised solely in fee simple, or fee taile, in such sort as the issue of them both might have inherited it, *Fitzh. nat. br. fol. 147. Regist. fol. 170.*

Dotis admensuratio. See *Admensurement*. See the Register, fol. 171.

Dorkins, a kind of Coine, *pl. cor. fol. 37.* It seemeth to come of the Dutch word, *Duyckin*, that is, the eight part of a *Stuifer*, or French *Shilling*, which in Latine is called *Solidus Gallicus*.

Doubles, anno. 14. H. 6. cap. 6. signifie as much as letters Patents, being as it seemeth a French word made of the Latine (*diploma.*)

Double plee, (duplex placitum) is that, wherein the defendant alleageth for himselfe two severall matters, in barre of the action whereof either is sufficient to effect his desire in debarring the Plaintiffe. And this is not to be admitted in the Common Lawe: wherefore it is well to be observed, when a plee is double, and when it is not. For if a man alledge severall matters, the one nothing depending of the other, the plee is accounted double. If they bee mutually depending one of the other, then is it accounted but single. *Kitchin fol. 223.* See *Brooke hoc titulo.* But why this doublenesse (for so *Kitchin* calleth it, *fol. 234.*) should be debarred, I see no reason (vnder correction all things being spoken.) For a man may have two good defences: and happily in the issue hee shall contrarily to his hope faile in proving the one, and yet be able to carry the cause by the other. And therefore not onely the Civilians, but *Bracton* also saith: *Pluribus exceptionibus nisi nemo prohibetur. libr. 5. tract. 5. cap. 5. num. 4.* whom also see, *libro. 4. cap. 17.* And *Sir Thomas Smiths* reason of this

scantly satisfieth mee, alledging this to be the course of our proceeding, because the triall is by twelve rude men, whose heades are not to be troubled with ouer many things at once. *lib. 2. de Republic. Anglar. cap. 13.*

Double quarrell (duplex querela) is a complaint made by any Clerke or other vnto the Archbishop of the Province, against an inferiour Ordinary for delaying of Iustice in some cause Ecclesiasticall: as to give sentence or to Institute a Clerke presented, or such like. The effect whereof, is that the said Archbishop taking knowledge of such delay, directeth his Leters vnder his authentical Scale, to all and singular Clerks of his Province, thereby commaunding and authorizing them and every of them, to admonish the said Ordinarie, within a certaine number of dayes, namely, 9. dayes, to doe the Iustice required, or other wise to cite him to appeare before him or his Officiall, at a day in the said Leters prefixed, and there to alledge the cause of his delay. And lastly, to intimate to the said Ordinary, that if hee neither performe the thing enioyned, nor appeare at the day assigned, he himselfe will, without farther delay, proceed to performe the Iustice required. And this seemeth to be termed a double

quarell, because it is most commonly made against both the Iudge and him, at whose petition Iustice is delayed.

Dower (*dos*) consisteth of the French (*douaire*) and signifieth in our Common Lawe, two things: first, that which the wife bringeth to her husband in marriage, otherwise called (*maritagium*) marriage goods: next, and more commonly, that which shee hath of her husband, after the marriage determined, if she out-live him. *Glanvile lib. 7. cap. 1. Bracton, lib. 2. cap. 38. Britton, cap. 101. in princ.* And in Scotland, (*dos*) signifieth iust as much. *Skene de verb. signif. verbo Dos.* The former is in French called (*dot*) the other *douaire*, and by them latined *doarium*. I likewise once thought it not unreasonable, to call the former a *Dowrie*, and the other a *Dower*: but I finde them confounded. For example: *Smith. de rep. Anglo. pa. 105.* calleth the latter a dowry, and *dower* is sometime used for the former: as in *Britton. ubi supra.* yet were it not inconvenient to distinguish them being so divers. The Civilians call the former (*dorem*) and the latter (*donationem propter nuptias.*) Of the former, the common Law booke speakes very little. This onely is to be noted, that whereas by the Civile Lawe, instruments are made be-

fore marriage, which containe the quantitie of the wiues dowrie, or substance brought to her husband, that hee having the use of it, during marriage, may, after certaine deductions, restore it againe to his wiues heires or friends, after the marriage dissolved: the Common Law of *England*, whatsoever chattels movable or immovable, or ready money shee bringeth, doth make them forthwith her husbands owne, to be disposed of, as hee will, leaving her at his courtesie, to bestow any thing or nothing of her at his death. The reason whereof is said to be, the holding of the wife in obedience to her husband. Onely if shee be an inheretrix, her husband holdeth the Land but during her life, except hee have issue by her: but then hee holdeth it by the courtesie of *England* during his owne life. See *Courtesie*. And againe, if he have any Land in fee, whereof hee was possessed during the marriage, shee is to have a third thereof during her life, though she bring nothing to him, except shee doe by fine release her right, during the marriage. So that here is no great matter to be spoken of, but touching *dower* in the latter signification. You must know therefore that vpon speech of marriage betweene two, the Parents of both sides are commonly

monly more carefull in providing each for his child; then the parties themselves: And that by their meanes there bee divers bargaines made, sometime for the conveyance of lands, &c. to them and their issue: And this is said to be given in Franck marriage: sometime to her, during her life, and that before, or at the marriage: If before marriage, then it is called a Joynture. For a Joynture is a covenant, whereby the Husband, or some for him is tyed (*ratione junctura*) in consideration of the marriage, that the wife surviving him, shall have during her life, this or that tennement or lands, or thus much Rent, yearly payable out of such land, &c. with clause of distresse: and this may be more or lesse, as they doe accord, *Britton, cap. 101.* whom reade also, *cap. 102, 103, 104.* for *conventio vincit legem* *Bracton, li. 5. tract. 4. cap. 9.* The diversitie of these Joyntures, you may see in *West. parte prima symbol li. 2. Sect. 128, 129, 130, 131, 132, 133.* But if none of these former bargaines passe before marriage, then must the wife stick to her Dower: and that is sometime given at the Church doore, or the Chappell doore, if the marriage be by License, but not the Chamber doore; and may bee what the

Husband will: No it exceed not a third part of his lands, *Glanvile, lib. 6. cap. pri.* Or the halfe, as some say, *Fitzh. nat. br. fol. 150. M. P.* And this Dower is either certainly set downe and named, or not named, but onely in generality, as the law requireth: if it be not named, then it is by law, the third part, and called (*dos legitima*) *Bracton, lib. 4. tract. 6. cap. 6. nu 6, & 10. Magna Charta c. 7.* or the halfe, by the custome of some countries, as in *Gavelkind* *Fitzh. nat. br. fol. 150. O.* And though it be named, it seemeth that it cannot be above halfe the lands of the Husband, *Fitzh. nat. br. fol. 150. P.* And the woman that will challenge this Dower, must make 3. things good; viz. that shee was married to her Husband, that hee was in his life time; seized of the land, whereof shee demandeth Dower, and that hee is dead, *Cokes reports, lib. 2. Bingham's case fo 93. a.* Of these things see *Glanvile, li. 6. cap. 1. 2, & 3.* *Bracton, lib. 2. cap. 38, 39. & lib. 4. tract. 6. cap. 1. & 6.* and *Britton cap. 101, 102, 103, 104.* and *Fitzherb. nat. br. fol. 147, 148, 149, & 150.* And this customary Dower, seemeth to be observed in other nations, as well as in ours. *Hotoman verbo Dotalitium in verbis feudal: Cassan. de consuetud. Burg. pa. 580. 676, 677. et de conventional. p. 720.* And to these

joyne the grand Customarie of Normandy, cap. 102. where you shall perceive, that in a manner all our law in this point is taken from the Normans. See *Endowment*. Of dower reade *Fleta* likewise, who writeth largely thereof, and hath many things worth the learning, li. 5. ca. 22. & seqq.

Dozenne. See *Decennier*.

Drags, anno 6. H. 6. ca. 5. seeme to be wood or timber so ioyned together, as swimming or floating upon the water, they may beare a burden or load of other wares downe the River.

Draw latches, anno 5. Edw. 3. cap. 14. & anno 7. Rich. 2. cap. 5. *Maister Lamberd*, in his *Eirewre*, lib. 2. ca. 8. calleth them *Miching thieves*, & *Wasters* and *Reberdsemen* mighty thieves, saying that the words be growne out of use.

Dreis Dreis, signifieth a double right, that is *ius possessionis*, & *ius Domini*. *Bracton*, lib. 4. cap. 27. & lib. 4. tract. 4. cap. 4. & lib. 5. tract. 3. cap. 5.

Dry exchange, anno 3. H. 7. ca. 5. (*Cambium siccum*) seemeth to be a cleanly tearme invented for the disguising of foule usury, in the which something is pretended to passe of both sides, whereas in truth, nothing passeth but on the one side: in which respect it may well be called dry. Of this *Ludovicus Lopes tractat*, de

contract: & negotiatio. lib. 2. cap. pri. §. Deinde postquam. writeth thus: *Cambium est reale vel siccum. Cambium reale dicitur, quod consistenciam veri Cambii realem habet, & Cambium per trans, & Cambium minus. Cambium autem siccum est Cambium non habens existenciam Cambii, sed apparentiam ad instar arboris exsiccata, que humora vitali iam carens apparentiam arboris habet non existenciam. Summa Sylv. Verbo Usura quest. 6. Est ergo Cambium siccum iuxta hanc acceptionem (in qua etiam accipitur in *Extrait Pii quinti*) idem quod Cambium fictum. Non autem habet propriam naturam Cambii, sed mutui & usura. At vero secundum *Laurentium de navarra* in *Comento de usuris & Cambiis* citatam, Cambium siccum in alia acceptione minus communis sumptum est Cambium, in quo Campsor prius dat quam accipiat, Dicitur autem isto modo siccum, quia sine pramia acceptione dat Campsor. Quod tamen, ut sic acceptum (autore *Silvestro*) licet celebratur aliquando. Quia tunc verum & reale Cambium est differens genere ab eo Cambio, in quo Campsor prius recipit. Quia in isto Campsor semper prius dat & deinde accipit.*

Drift of the Forest, seemeth to be nothing but an exact view or examination, what catell are in the Forest: that it may be known whether it bee overcharged or

not, and whole the Beasts be. This drift, when, how often in the yeare, by whom, and in what manner it is to be made, see *Manwood*, parte 2. of his Forest lawes, cap. 15.

Droit d'Advowzen. See *Recto* de advocations Ecclesie.

Droit close. See *Recto* clausum.

Droit de dower. See *Recto* dotis.

Droit sur Disclaimer. See *Recto* sur disclaimer.

Droit patent. See *Recto* patens.

Duces tecum, is a writ commanding one to appeare at a day in the Chancerie, and to bring with him some piece of Evidence, or other thing, that the Court would view. See the new booke of Entries, verbo *Duces tecum*.

Duke (*Dux*) commeth of the French (*Duc*) It signifieth in ancient times among the Romanes (*Ductorem exercitus*) such as led their armies, who if by their prowesse they obtained any famous victory, they were by their Souldiers saluted (*Imperatores*) as *Hetoman* verbo *Dux*, de verbis feudal: proveth out of *Li-vie*, *Tully*, and others. Sithence that they were called (*Duces*) to whom the King or people committed the custodie or regiment of any Province. *Idem. eod.* And this seemeth to proceed from the Lombards or Germans, *Sigon de regno Ital. l. 4.* In some nations at

this day, the Sovereignes of the country, are called by this name, as *Duke of Russia*, *Duke of Sweden*. Here in England, *Duke* is the next in secular Dignitie to the Prince of Wales. And as (*M. Camden* saith) heretofore in the Saxons times, they were called *Dukes*, without any addition, being but meere officers, and leaders of armies. After the Conquerour came in, there were none of this title untill *Edward* the thirds daies, who made *Edward* his Son, *Duke of Cornwall*. After that, there were more made, and in such sort, that their Titles descended by inheritance to their posteritie. They were created with solemnitie (*per circumferendum gladii, cappae & circuli aurei in capite impositionem*, vide *Camd. Britan. pa. 166. Zafum de feudis parte 4. nu. 7. & Cassan. de consuetud. Burg. pag. 6. & 10. and Ferns glory of generosities, pa. 139.*

Dutchy court, is a court, wherein all matters appertaining to the *Dutchy of Lancaster*, are decided by the decree of the Chancelour of that Court. And the originall of it was in *Henry* the fourthes daies, who obtaining the Crown, by deposing *Richard* the second, and having the *Dutchy of Lancaster* by descent in the right of his mother, hee was seised thereof as King, and not as *Duke*. So that all the liberties, franchises, and

Jurisdicktions of the said *Dutchy* passed from the King by his grand Seale, and not by Liverie, or Attournment: as the possessions of *Everwicke*, and of the *Earldome of March*, and such others did, which had descended to the King by other Ancesters then the Kings, but at last, *Henry* the fourth, by authority of Parliament passed a Charter, whereby the possessions, liberties, &c. of the said *Dutchy* were severed from the Crowne: Yet *Henry* the 7. reduced it to his former nature, as it was in *Henry* the fifts daies, *Cromptons Jurisd.* fol. 136. The officers belonging to this Court, are the Chancelour, the Attorney, Receiver generall, Clerke of the Court, the Messenger. Beside these, there be certaine Assistants of this Court: as one Attorney in the Exchequer: one Attorney of the Dutchy in the Chancery, foure Learned men in the Law, retained of Councell with the King in the said Court. Of this Court, *M. Gwin*, in the Preface to his Readings thus speaketh: The Court of the Dutchy (or County Palatine of Lancaster) grew out of the grant of King *Ednard* the third, who first gave the Dutchy to his Sonne *John of Gaunt*, and endowed it with such Royall right, as the County Palatine of Chester had: And for as much, as it was

afterward extinct in the person of King *Henry* the fourth, by reason of the union of it with the Crowne: the same King suspending himselfe to be more rightfully Duke of Lancaster, then King of England, determined to save his right in the *Dutchy*, whatsoever should befall of the Kingdome: and therfore hee separated the *Dutchy* from the Crowne, and setled it so in the naturall persons of himselfe and his heires, as if hee had beene no King or Politicke body at all: In which plight it continued, during the raigne of K. *Henry* the 5. and *Henry* the 6. that were descended of him. But when King *Edm.* the 4. had (by recovery of the Crowne) recontinued the right of the house of *Yorke*, hee feared not, to appropriate that *Dutchy* to the Crowne againe: and yet so, that hee suffered the Court and Officers to remaine as hee found them. And in this maner, it came together with the Crowne, to King *Henry* the 7. who liking well of that Policie of K. *Henry* the 4. (by whose right also hee obtained the Kingdome) made like separation of the *Dutchy*, as hee had done, and so left it to his posterity which doe yet enjoy it.

Dum fuit infra etatem, is a writ which lieth for him, that before hee came to his full age, made

a feofment of his land in fee, or for terme of life, or in taile, to recover them againe from him, to whom hee conveyed them, *Fitz. nat. br. fol. 192.*

Dum non fuit compos mentis, is a writ that lieth for him, that being not of sound memory, did alien any lands or tenements in fee simple, fee tayle, for terme of life, or of yeares, against the aliencie, *Fitzh. nat. br. fol. 202.*

Duplicat, is used by *Crompton*, for a second Letters patent, granted by the Lord Chancelour, in a case, wherein hee had formerly done the same: and was therefore thought void. *Cromptons Iuris. fol. 215.*

Dures (*Duritia*) commeth of the french (*dur. i. durus, veldurete. i. duritas*) and is in our common law, a Plee used in way of exception, by him that being cast in prison at a mans suit, or otherwise by beating, or threats hardly used, sealeth any Bond unto him during his restraint. For the law holdeth this not good, but rather supposeth it to be constrained. *Broke* in his *Abridgement* joyneth *Dures* and *Manasse* together. *i. duritiam & minas*, hardnes & threatening. see the new Booke of *Entris*, verbo *Dures*. And the *New termes of Law*.

E A

E *Aldermans* (*Aldermannus*) among the Saxons, was as

much as Earle among the Danes. *Camden, Britan. pag. 107.* If yee goe to the true etimologie of the word, mee thinketh, it should sound more generally, so much as *πρεσβυς* with the Gracians, or *Senator* with the Romanes: who were rather Councillors at large, then bestowed upon any particular office, as *Comites* were. See *Countie*. And that signification we retaine at this day almost in all our Cities, and Boroughs, calling those Aldermen, that are Associates to the Chiefe Officer in the common Councell of the Towne, anno 24. *H. 8. cap. 13.* or sometime the chiefe officer himselfe, as in *Stawnsford*.

Earle (*Comes*) in *M. Camdens* opinion, pag. 107. is a word made by the Danes of (*Ealderman*) a word of the Saxons. *M. Lamberd* seemeth notwithstanding to acknowledge, that *Earle* is originally a Saxon word, *Explica. of Saxon words. verbo Paganus*: and interpreteth it (*Sarrapam*) which word the Romanes borrowing of the Persians, applyed to those that were *praefecti provinciarum*. *M. Verslegan* in his *restitution of decayed Intelligence*, deriveth it from two *Netherland* words (*ear. i. honor*) and (*erbel. i. nobilis*) wherein I leave the Reader to his owne judgement. This title in ancient time, was given to those, that were Associates to the King in his Coun-

a feofment of his land in fee, or for terme of life, or in taile, to recover them againe from him, to whom hee conveyed them, *Fitz. nat. br. fol. 192.*

Dum non fuit compos mentis, is a writ that lieth for him, that being not of sound memory, did alien any lands or tenements in fee simple, fee tayle, for terme of life, or of yeares, against the aliencie, *Fitzh. nat. br. fol. 202.*

Duplicat, is used by *Crompton*, for a second Letters patent, granted by the Lord Chancelour, in a case, wherein hee had formerly done the same: and was therefore thought void. *Cromptons Iuris. fol. 215.*

Dures (*Duritia*) commeth of the french (*dur. i. durus, veldurete. i. duritas*) and is in our common law, a Plee used in way of exception, by him that being cast in prison at a mans suit, or otherwise by beating, or threats hardly used, sealeth any Bond unto him during his restraint. For the law holdeth this not good, but rather supposeth it to be constrained. *Broke* in his *Abridgement* joyneth *Dures* and *Manasse* together. *i. duritiam & minas*, hardnes & threatening. see the new Booke of *Entris*, verbo *Dures*. And the *New termes of Law*.

E A

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Councels and Marshall actions, (as Comes was to those that followed the Magistrates in Rome, and executed their Offices for them as their Deputies, and died alwaies with the man. *Zafius* hath of this word thus much: *Comitum originem in Doctoribus non invenimus: sed noveris eam dignitatem vetustissimam esse. Nam Cor. Tacitus in libello de Germania scribit apud priscos usum fuisse receptum, ut cuilibet principi seu Duci exercitus duodecim comites assignarentur: ideo dictos, quia comitarentur eos, & à Ducum latere non decederent. Comitum itaq; originem Germanis moribus ortum esse, dictum receptissimum auctor testis est. Quia propter quod in duodecimo libro codicis aliqui tituli de Comitibus largitionum, &c. inscribuntur, usurpationem Imperatoris ex Germanorum ritibus sumptam credo.* But the Conquerour (as *M. Camden* saith) gave this Dignitie in fee to his Nobles, annexing it to this or that Countie or Province, and allotted them, for their maintenance, a certaine proportion of money rising from the Princes profits, for the pleadings and forfeitures of the Province. For example, hee bringeth an ancient Record in these words: *Henricus 2. Rex Anglia his verbis Comitum creavit: Sciatis nos fecisse Hugonet Bigot Comitem de Norfolk. scilicet de tertio denaria de Normic. &*

Northfolke sicut aliquis comes Anglia liberius comitatum suum tenet. Which words (saith the same Author) an old booke of *Battell Abbey* thus expoundeth: *Consuetudinaliter per totam Angliam motu antiquitus inoleverat. Comites provinciarum tertium denarium sibi obtinere, inde Comites dicti.* And another Booke without name more fully. *Comitatus à Comite dicitur, aut vice versa. Comes autem est, quia tertiam portionem eorum, quae de placitis proveniunt, in quolibet Comitatu percipit. Sed non omnes Comites ista percipiunt: sed hi quibus Rex hereditario aut personaliter concessit.* You may reade *M. Fern in Lacy* so nobility, something to this effect, pag. 12. But hee saith, that one Duke or Earle had divers Shires under his government, as a viceroi, and had Lieutenants under him in every particular Shire, called a Sheriffe. That one Earle was dignified by the appellation, or more then one Sheriffe, it appeareth by divers of our ancient Statutes, as namely, by the sentence of Excommunication, pronounced by the Bishops, against the infringers of the great Charter, and charter of the Forest, anno 38. H. 3. *Roger Bigot* is named Earle both of Northfolke and Southfolke, and anno 1. Ed. 3. *Thomas* Earle of Lancaster and Leicesters. *Hamfrey Bohun*, Earle of Hereford

ford and Essex. Dyer. fo. 285. num.
 39 At these dayes, as long since, the kings of *England* make Earles by their Charters, of this or that Countie, giving them no authoritie over the County, nor any part of the profit rising of it, but onely some annuall stipend out of the Exchequer, rather for honours sake, then any great commoditie. And these bee in other nations accounted Earles improperly, *Quia illi dicuntur verè Comites, quibus datur Comitatus in feudum: illi Comites abusive, qui non habent administrationem. Vincentius de Franchis, de fco. 115. nu 7.* The manner of creating Earles is by girding them with a sword. *Cambden pag 107* but see the solemnitie thereof described more at large in *Scowes annals pa. 1121.* The occasion why these Earles in later times have had no sway over the County, whereof they beare their name, is not obscurely signified in *Sir Tho. Smith lib. 2 cap 14.* where he saith, that the Sheriffe is called *Vicecomes* as (*Vicarius Comitis*) following all matters of Iustice, as the Earle should doe: and that because the Earle is most commonly attendant upon the King, in his warres or otherwise. So that it seemeth that Earles by reason of their high employments, being not able to follow also the businesse of the County, were delivered of all

that burthen, and onely enjoyed the honour, as now they doe. And the Sheriffe, though hee bee still called *Vicecomes*, yet all he doth, is immediatly vnder the King, and not vnder the Earle. See Countie, and see *Hotoman. de verb. feudal. verbo Comes:* and *Cassin de consuetud. Burg. pa 12*

Easement, (esamentum) is a service that one neiglbour hath of another by Charter or prescription, without profit as a way through his ground, a sinke, or furch like. *Kitchinfol. 105.* which in the Civill Law is called *Servitus predii.*

Eele fares, alias, Eele Vares. anno 25. Henr. 8. cap. 7. bee the frie or brood of Eeles.

Egyptians, (Egyptiani) are in our Statutes and Lawes of England, a counterfeite kinde of Rogues; that being English or Welch people, accompany themselves together, disguising themselves in strange roabes, blacking their faces and bodies, and framing to themselves an unknowne Language, wander up and downe, and vnder pretence of telling of Fortunes, curing diseases, and such like, abuse the ignorant common people, by ftaling all that is not too hotte or to heavie for their cariage. *anno 1. & 2. Philip. & Mar cap. 4. anno 5 Eliz cap 20.* These are very like to those whom the Ita-

lians call *Cingari*: of whom *Franciscus Leo in suo thesauro, fori Ecclesiastici parte prima cap. 13.* thus writeth: *Cingari, qui corrupto vocabulo, quandoque etiam Saraceni nominantur, & permissione principum ac aliorum dominorum, per Italiam vagantur, nec unquam viderunt partes infidelium, minusque legem Mahometi noverunt: sed sunt ferè omnes Itali, & male habitati, ex rebus furtivis vivunt, ac fraudulentis earum permutationibus & ludis, in quibus ut plurimum fraudes committunt, & sunt baptizati.*

Ejectione custodie, *Ejectment de guard*, is a Writ which lyeth properly against him, that casteth out the Gardian from any land, during the minority of the Heire. *Regist. orig. fol. 162. Fitzh. nat. br. fol. 139.* Tearmes of the Law. *verbo Gard.* There bee two other writs not unlike this: the one is termed *Droit de gard*, or right of guard, the other *Ravishment de Guard*. Which see in their places.

Ejectione firma is a writ, which lyeth for the Lessee for terme of yeares, that is cast out before the expiration of his tearme, either by the leassour or a stranger. *Regist. fol. 227. Fitz. nat. br. fol. 220.* See *Quare ejecit infra terminum*. See the new booke of Entries. *verbo Ejectione firma.*

Einccia, is borrowed of the French, *Aisne. i. primogenitus*) and

signifieth in our Common Lawe, Eldership. *Statute of Ireland. anno 14. Hen. 3.* Of this see *M. Skene de verb. signif. verbo. Eneya.*

Eyre, alias, *Eyre*, (*Iter. Bracton lib. 3. cap. 11. in Rubrica*) cometh of the olde French word (*Erré. i. iter* (as (*à grand erre. i. magnis itineribus.*)) It signifieth in *Britton. cap. 2.* the Court of Iustices *Itenerants*: and *Iustices in Eyre*, are those onely, which *Bracton* in many places calleth (*Iusticiarios itinerantes*) of the *Eyre*, reade *Britton ubi supra*, who expresseth the whole course of it. And *Bracton lib. 3. tractat. 2. ca. 1. & 2.* The *Eyre* also of the Forest is nothing, but the Iustice Seate, otherwise called: which is or should by ancient custome, bee held every three yeare by the Iustices of the Forest, iourning up and down to that purpose. *Cromptons Iurisd. fol. 156. Manhood parte prima* of his Forest lawes. pag. 121. See *Iustice in Eyre*. Reade *Skene de verborum significa. verbo. Iter*: whereby, as by many other places, you may see great affinity between these two Kingdoms in the administration of Iustice and government.

Elektion de Clerke (*Elektion clerici*) is a writ, that lyeth for the choice of a Clerke, assigned to take and make bonds called *statute Merchant*: and is granted out of the Chauncerie vpon suggestion

gestion made, that the Clerke formerly assigned, is gone to dwell in another place, or hath hinderance to let him from following that businesse, or hath not land sufficient to answer his transgression, if hee should deale amisse, &c. *Fitzh. nat. brev. fol. 164.*

Elegit, is a writ Iudiciall, and lyeth for him that hath recovered debt, or damages in the Kings Court, against one not able in his goods to satisfie: and directed to the Sheriffe, commanding him that hee make delivery of halfe the parties lands or tenements, and all his goods, Oxen and Beasts for the Plough excepted, *Old nat. br. fol. 152. Regist. orig. fol. 299. & 301.* and the table of the Register Iudiciall, which expresth divers uses of this writ. The author of the new Termes of law saith, that this writ should be sued within the yeare, whom reade at large for the use of the same.

Elk, a kind of Ewe to make Bowes of, *anno 33. H.8. cap. 9.*

Empanel (*Impanellare*, *Ponere in assis & Iuratis*) commeth of the French (*Panne. i. pellis*) or of (*Panneau*) which signifieth some time as much as a Pane with us, as a pane of glasse, or of a window. It signifieth the writing or entring the names of a Iury into a parchment Schedule or

Roll or paper, by the Sheriffe, which hee hath summoned to appeare for the performance of such publike service, as Iuries are employed in. See *Panell*.

Emparlance, commeth of the french (*Parler*) and signifieth in our common law, a desire or petition in Court of a day to pause, what is best to doe. The Civilians call it (*petitionem induciarum*) *Kitchin, fol. 200.* interpreteth it in these words: If hee im- parle or pray continuance. For praying continuance is spoken *interpretative* in that place, as I take it. The same Author maketh mention of *Emparlance* generall, *fol. 201.* and *Emparlance* speciall, *fol. 200.* *Emparlance* generall seemeth to be that which is made onely in one word, and in generall termes. *Emparlance* speciall, where the party requireth a day to deliberate, adding also these words: *Salvis omnibus advantagiis tam ad jurisdictionem Curia quam ad breve et narrationem*, or such like: *Britton* useth it for the conference of a Iury upon the cause committed unto them, *cap. 53.* See *Imparlance*.

Emprovement See *Improvement*.

Encheson, *A. 50. Ed. 3. cap. 3.* is a french word, signifying as much as occasion, cause, or reason wherefore any thing is done. See *Skene de verbo. significat. verbo Encheson*.

Encroachment or *Accroachment*, commeth of the French (*Accrocher*, i. *apprehendere*, *invenire*, *harpagare*) and that commeth of (*Crochure*, i. *aduncitas*) or (*crochu*, i. *aduncio*) *Encroachment*, in our Common Law, signifieth an unlawfull gathering in upon another man. For example, if two mens grounds lying together, the one presseth too farre upon the other: or if a Tenant owe two shillings rent service to the Lord, and the Lord taketh three: So *Hugh* and *Hugh Spencer* encroched unto them royall power and authority, anno prim. Ed. 3. in *prom.*

Enditement (*Indictamentum*) commeth of the French (*Enditer*, i. *deferre nomen alicujus*, *indicare*) or from the Greeke *endein-
nuis*, because *M. Lamberd* will haue it so. *Eirenar. lib. 4. cap. 5. pag. 468.* It signifieth in our Common Law, as much as (*Accusatio*) in the Civile Lawe, though it have not in all points the like effect. *West. parte 2. symb. titulo, Inditements*) defineth it thus: An Inditement is a Bill or declartation made in forme of Lawe) for the benefite of the Common wealth) of an accusation for some offence, either criminall or penall, exhibited unto Jurours, and by their verdict found and presented to bee true, before an Officer having power

to punish the same offence. It is an accusation, because the Jury that inquireth of the offence, doth not receive it vntill the party that offereth the Bill, appeare so farre in it, as to subscribe his name, and offer his oath for the truth thereof. It differeth from an Accusation in this, that the preferrer of the Bill is no way tyed to the prooffe thereof upon any penaltie, if it be not proved, except there appeare conspiracie. Wherefore, though moved by *M. Wests* authoritie, I call it an Accusation: yet I take it to be rather (*Denunciatio*) because it is of Office done by the great Enquest, rather then of a free intent to accuse. Of this you may reade *S. Tho: Smith de Rebus Anglor, lib. 2. cap. 19.* and *Stawns. pl. cor. lib. 2. cap. 23. 24. 25. 26. &c. Vss. 34.* and *M. Lamberds Eirenarcha. lib. 4. ca. 5.* whence you may receive good satisfaction in this matter.

Endowment (*dotatio*) commeth of the French (*Douaire*) and signifieth the bestowing or assuring of a Dower. See *Dower*. But it is sometime vsed Metaphorically, for the setting forth or severing of a sufficient portion, for a Vickar toward his perpetuall maintenance, when the Benefice is appropriated. See *Appropriation*. And the Statute *A. 15. R. 2. cap. 6.*

Endowment de la plus Belle parte is where a man dying seised of some lands, holding in Knights service, and other some in socage, the widow is sped of her Dower, rather in the lands holding in socage, then Knights service. Of this read *Litleton* more at large, *lib. 1. cap. 5.*

Enfranchisement, commeth of the french (*Franchise. i. libertas*) and is in a maner a french word of it selfe: It signifieth in our common law, the incorporating of a man in any society, or body politicke. For example, hee that by Charter is made Denizen of *England*, is said to be enfranchised; and so is hee that is made a Citizen of *London*, or other City, or Burgesse of any Towne Corporate, because hee is made partaker of those liberties that appertain to the Corporation, wherinto he is enfranchised. So a villaine is enfranchised, when hee is made free by his Lord, and made capable of the benefits belonging to Free-men.

Englecerie (*engleceria*) is an old abstract word, signifying nothing else but to be an English man. For example, if a man be privily slaine or murdered, hee was in old time accounted (*Francigena*) which word comprehendeth every alien, untill *Englecerie* was proved: that is, untill it were made manifest, that

hee was an English man: A man may marvell, what meaning there might be in this: but *Bracton* clearerth the doubt, who in his third booke, *tract. 2. cap. 15. num. 3.* telleth us, that when *Cannus* the Danish King, having settled his estate heere in peace, did at the request of our Barons, disburden the land of his armie, wherein he accounted his greatest safety: and conditioned with them, that his countrymen which remained here, should continue in peace: and the more to secure that, that for every *Francigena* (under which word, (as is above said) he comprehended all outlandish men and women, and especially *Danes*) that was secretly murdered, there should be levied to his Treasurie 66. markes out of the village, where the murder was committed, or out of the Hundred, if the Village were not able to pay it: and further, that every man murdered, should be accounted *Francigena*, except *Englecerie* were proved: which, how it was to be proved, looke the 7. number in the same chapter. And see also *Horns* mirror of Iustices, *lib. 1. cap. del office del coroner.* and *Fleta lib. 1. cap. 30.* This *Englecerie*, for the abuses and troubles that afterward were perceived to grow by it, was cleane taken away, by a Statute made anno

14. *Ed. 3. capite quarto.*

Inheritance. See *Inheritance.*

Enquest (*Inquisitio*) is all one in writing with the french word, and all one in signification, both with the French and Latine. Howbeit, it is especialy taken for that Inquisition, that neither the Romanes, nor French men ever had use of, that I can learne. And that is the *Enquest* of Iurors, or by Iurie, which is the most usuall triall of all causes, both Civill and Criminall in our realme. For in causes Civill, after prooffe is made of either side, so much as each partie thinketh good for himselfe, if the doubt be in the fact, it is referred to the discretion of twelve indifferent men, empaneled by the Sheriffe for the purpose: and as they bring in their verdict, so judgement passeth. For the Iudge saith, the Iurie findeth the fact thus: then is the law thus: and so wee judge. For the enquest in causes Criminall, see *Iurie*; and see *Sir Thomas Smith de Repub. Anglor. li. 2. ca. 19.* An enquest is either of office, or at the mife of the party. *Stawn. pl. cor. lib. cap. 12.*

Entendment, commeth of the French (*entendiment. i. intellectus ingenium.*) It signifieth in our common law, so much as the true meaning or signification of a word or sentence. See of this *Kitchin, fol. 224.*

Entayle (*feudum talliarum*) commeth of the French (*entaille. i. incisus*) and in our common law, is a substantive abstract, signifying Fee-taile, or Fee-intailed. *Litleton* in the second chapter of his booke, draweth Fee-taile from the verbe *Talliare*, (which, whence it cometh, or whether it will, I know not) whereas in truth it must come from the French (*taille. i. sectura,*) or (*tailler. i. scindere, scicare.*) And the reason is manifest, because Fee-taile in the law, is nothing but Fee abridged, scanted or curtailed, (as you would say) or limited and tyed to certaine conditions. *Taille* in France, is metaphorically taken for a tribute or subsidie. *v. Lupanum de Magistratibus Francorum lib. 3. cap. Talca.* See *Fee.* See *Tayle.*

Enterpleder (*Interplacitare*) is compounded of two French words (*entre. i. inter*) and (*pleder. i. disputare*) and it signifieth in our common law, as much as *cognitio prejudicialis* in the Civill law: that is, the discussing of a point incidently falling out, before the principall cause can take end. For example, two severall persons, being found heires to land, by two severall offices in one Countie, the King is brought in doubt to whether livery ought to be made: and therefore before

fore Livery be made to either: they must enterplead; that is, formerly trie betweene themselves, who is the right heire. *Stawf. preroga. chap. 19.* See more examples in *Broke, titulo Enterpleder.*

Entiere tenencie, is contrary to severall Tenencie, signifying a sole possession in one man: wheras the other signifieth joynt or common in more. See *Broke* severall tenencie. See the new booke of Entries, *verbo Entier tenencie.*

Entry (Ingressus) commeth of the french (*entree, i. introitus ingressus, aditus*) and properly signifieth in our common law, the taking possession of lands or tenements. See *Plowden. Assise of fresh force in London, fo. 93. b.* It is also used for a writ of possession, for the which, see *Ingressu.* And read *West* also, *parte 2. Symbol. titulo Recoveries, Sect. 2. & 3.* Who there sheweth for what things it lyeth, and for what it lyeth not. Of this *Britton* in his 114. chapter writeth to this effect. The writs of entrie favour much of the right of property. As for example, some be to recover customes and services: in the which are contained these two words (*solet & debet*) as the writs *Quo jure, Rationabilibus divisis, rationabili est overio*, with such like. And in this plece of entry

there be three degrees: The first is, where a man demandeth lands or tenements of his owne seisin, after the terme is expired. The second is, where one demandeth lands or tenements, let by another after the terme expired. The third, where one demandeth lands or tenements of that tenant, that had entry by one, to whom some Ancestour of the Plaintiffe did let it for a terme now expired. According to which degrees, the writs for more fit remedie are varied. And there is yet a fourth forme, which is without the degrees, and in case of a more remote Seisin, wheneunto the other three degrees do not extend. The writ in the second degree is called a writ of entry *in le per*: and a writ in the third degree is called a writ of entry *in le per & cui*: and the fourth forme without these degrees, is called a writ of entry *in le past*: that is to say, after the disseisin which such a one made to such a one. And if any writ of entry be conceived out of the right case, so that one forme be brought for another, it is abateable. The forme of the first degree is such. *Præcipe Willielmo quod reddat Petro manerium de B. cum pertinentiis quod ille dimisit pro termino, qui est elapsus.* The second is such: *Præcipe Petro quod reddat Willielmo manerium,*

rium &c in quod ille non habuit ingressum nisi per patrem aut matrem, avunculum, vel amitam, vel cognatum, avum vel proavum dicti Petri qui dictum manerium dimisit pro termino qui est elapsus. The third forme is such: *Præcipe Iohanni quod reddat p. tro manerium de S. in quod ille non habuit ingressum nisi per T. cui talis pater vel mater, vel alius antecessor aut cognatus idem dimisit, cuius heres est ipse Petrus, pro termino, qui est elapsus.*

And the forme without the degrees is such: *In quod non habuit ingressum, nisi post lessam, quam talis pater aut mater (sic ut supra) cuius heres ille est, inde fecit pro termino, qui est elapsus.* And in those four degrees be comprehended all maner writs of entry, which be without certaintie and number. Thus farre Britton: by whom you may perceive, that those words (*sólet & debet*) and also those other words (*in le per*) (*in le per & cui*) and (*in le post*) which wee meet with many times in bookes shortly and obscurely mentioned, doe signifie nothing else, but divers formes of this writ, applyed to the case, whereupon it is brought, and each forme taking his name from the said words contained in the writ. And of this reade Fitzh. in his *nat. brev. fol. 193, & 194.* This writ of entry differeth from an assise, because it lyeth for the

most part against him, who entered lawfully, but holdeth against law: whereas an assise lyeth against him that unlawfully disseised: yet sometime a writ of entry lyeth upon an intrusion. *Regist. orig. fol. 233. b.* See the new booke of Entries, *verbo. Entre Brevis, fol. 254. colum. 3.* I reade of a writ of entry in the nature of an assise. Of this writ in all his degrees, reade *Fleta, lib. 5. cap. 34. & seqq. 5.*

Entrusion (Intrusion) in our common law, signifieth a violent or unlawfull entrance into lands or tenements, being utterly void of a possessor, by him that hath no right, nor sparke of right unto them, *Bracton, lib. 4. cap. 2.* For example, if a man step in upon any lands, the owner whereof lately died, and the right heire, neither by himselfe nor others, as yet hath taken possession of them. What the difference is betweene *Abator* and *Intruder*, I doe not well perceive, except an Abatour be hee that steppeth into land void by the death of a tenant in fee, and an Entrudour that doth the like into lands, &c. void by the death of the tenant for termes of life or yeares. See *Fitzh. nat. br. fol. 203. F.* The author of the new *Termes of law* would have abatement Latined, (*Interpositionem, aut Introitionem per interpositionem*) and to be retained

strained to him that entreteth before the heire after the decease of a tenant for life, though the new booke of Entries, fol. 63. G. & 205. D. & 519. C. by his confession doth Latine (*Abatement*) by this word (*Intrusionem*). See *Abatement*. See *Disseisin*. See *Britton*, cap. 65. *Intrusion* is also taken for the Writ brought against an Intrudour, which see in *Fitzh. nat. br. fol. 203*.

Intrusion de gard, is a writ, that lyeth where the Infant within age entred into his Lands and holdeth his Lord out: for in this case, the Lord shall not have the Writ (*De communic custodia*) But this *Old nat. br. fo. 90*.

Enure, signifieth to take place or effect, to be available, Example: A Release shall *enure* by way of extinguishment. *Littleton. cap. Release*. And a release made to a Tenant for terme of life, shall inure to him in the Reversion.

Erius, alias *Iris*, is the Flower de lyce, whose divers kindes you have expressed in *Gerards Herball. lib. 1. cap. 34*. The roote of this is mentioned among Merchandize or Drugs to bee garbled. *anno 1. laco cap. 19*.

Ermins seemeth to come of the French (*Ermine* i. *mus araneus*. it signifieth a Furre of great price.

Erminstreate. see *Watlingstreet*. *Errant* (*Itinerans*) commeth

of the French (*Error*) i. *errare*) or the old word (*Erre* i. *Iter*) It is attributed to Iustices of circuit. *pl. cor. fol. 15*. and *Baylifes* at large. See Iustices in *Eyre*. and *Bayliffe*. See also *Eyre*.

Errour (*Error*) commeth of the French (*Erreur*) and signifieth more specially in our Common Law, an error in pleading or in the proces, *Brooke, titulo Errour*. And thereupon the Writ, which is brought for remedy of this ouersight, is called a writ of error, in Latine, *De errore corrigendo*: thus defined by *Fitzh.* in his *nat. br. fol. 20*. A Writ of Errour is that properly, which lyeth to redresse false iudgement given in any Court of Record, as in the Common bench, *London*, or other citie, having power (by the Kings Charter or prescription) to hold plee of debt. See the new booke of Entries. *verbo. Error*. or trespassse above the summe of twenty shillings. This is borrowed from the French practise, which they call (*proposition d'erreur*.) Whereof you may reade in *Gregoreus De appellation*, pag 36. In what diversitie of cases this Writ lyeth, see the Register originall in the Table, *verb. Errore corrigendo*, and Register indiciaall fol. 34. There is likewise a Writ of Errour to reuerse a Fine. *West. parte 2 sect. symbol. titulo. Fines. 151*.

Errore corrigendo. See Error.

Escambio. is a licence granuted to one for the making over of a Bill of Exchange to a man over Sea. *Register. Original. fol. 194 a.*

Eſcape (*efcapim*) cometh of the French (*efchapper* .i. *aufugere*, *effugere* :) and ſignifieth in the Lawe, a violent or privie evasion out of ſome lawfull reſtraint. For example, if the Sheriffe upon a *Capias* directed unto him, take one, and endeavour to carie him to the Goale, and he in the way, either by violence or by ſlight, breake from him: this is called an *eſcape*. *pl. cor. fol. 70.* Many examples might bee brought out of him and others, but the thing is plaine: *Stawford. lib. 1. cap. 26. pl. cor.* nameth two kinds of *Eſcapes*, *voluntarie* and *negligent*: *Voluntarie* is, when one areſteth another for felonie or ſome other crime, and afterwards letteth him goe whither hee liſteth. In which eſcape the partie that permitteth it, is by Law guilty of the fault committed by him that eſcapeth, bee it Felony, Treason, or Trespaſ: *Negligent* eſcape is, when one areſteth, and afterward eſcapeth againſt his will that areſteth him, and is not purſued by freſh ſuite, and taken againe, before the party purſuing hath loſt the ſight of him: *Idem cap. 27.* but

there read more of this matter, for there bee doubts worth the conſideration. And of the courſe of puniſhment by the Civill Law in this point, reade in *Prædica criminali Claudi de Battandier. reg. 143.* reade alſo *Cromptons Inſtice fol. 35. b. & fol. 36. & 37.* and reade the *newe Termes of Lane.* There is an eſcape of beaſts likewiſe: and therefore hee that by charter, is *quietus de eſcapio* in the foreſt, is delivered of that puniſhment, which by order of the foreſt, lyeth upon thoſe whoſe beaſts bee found within the land forbidden: *Cromptons. Inſtice. fol. 196.*

Eſchequer (*ſcaccarium*) cometh of the French (*Eſchequier*, .i. *abacus, tabula Inſoria*) and ſignifieth the place or court of all receipts belonging to the Crowne, and is ſo termed, as I take it, by reaſon that in auncient times, the accomptants in that Office uſed ſuch Tables as *Arithmeticians* uſe for their calculations, for that is one ſignification of (*Abacus*) amongſt others. *Polidor. Virgil. lib. 9. hiſt. Angl.* ſaith that the true word in Latine is *ſcaccarium*, and by abuſe called *ſcaccarium*. In mine opinion it may well ſeeme to be taken from the German word (*Schatz*) ſignifying as much as (*Theſaurus*) or (*Fiſcus*.) And from this fountaine (no doubt) ſpring-

springeth the Italian word (*Zeccha*) signifying a mint: and *Zeccherii* aliàs *Zechieri*) the officers thereunto belonging, *De seif. Gennexen* 134. *M. Cam.* in his *Britan.* pag. 113. saith that this Court or office tooke the name *à tabula ad quam affidebant*, proving it out of *Gervasius Tilburienfis*, whose ywords you may reade in him. This Court is taken from the *Normans*, as appeareth by the *Grand Cusumarie*, cap. 56. where you may find the *Eschequier* thus described. The *Eschequier* is called an assemblee of High *Iusticiers*, to whom it appertaineth to amend that which the *Bailiffes*, and other meaner *Iusticiers* have evill done, and unadvisedly judged: and to doe right to all men without delay, as from the Princes mouth: *Skene de verbo significatione, verbo* (*Scaccarium*) hath, out of *Paulus Amilius* these words: *Scaccarium dicitur quasi Statarium, quòd homines ibi in iure sistantur, vel quòd sit stataria & perennis Curia, cum cetera curia essent indistincta, nec loco nec tempore stata*: where he saith also of himselfe, that in *Scotland* the *Eschequer* was stable, but the other Session was deambulatorie, before *James* the first: qui instituit *Statariam curiam*, cum antea esset indistincta: hee addeth farther: Others thinke that *Scaccarium* is

so called *à similitudine ludi Scaccorum*, that is the play of the chefts: because many persons meet in the *Chequer*, pleading their causes one against the other, as if they were fighting in an arraied battell: Others thinke that it commeth from an old Saxon word (*Scata*) as writeth *S. Thomas Smith*, which signifieth Treasure, Taxation, or Imposts, whereof account is made in the *Chequer*: This Court consisteth, as it were, of two parts: whereof one is conversant especially in the judiciall hearing and deciding of all causes appertaining to the Princes Cofers, anciently called *Scaccarium computorum*, as *Ockam* testifieth in his *lucubrations*: the other is called the receite of the *Eschequer*, which is properly employed in the receiving and payment of money. *Crompton in his Iurisdictiones*, fol. 105. defineth it to be a Court of record, wherein all causes touching the revenues of the Crowne are handled. The officers belonging to both these, you may find named in *M. Camdens Britannia, ca. Tribunalia Anglia*, to whom I refer you. The Kings *Exchequer* which now is settled in *Westminster*, was in divers Countries of *Wales*, anno 27. *H. 8. cap. 5.* but especially cap. 26.

Escheat (*Eschaeta*) cometh of the french (*eschecoir. i. cadere, acci-*

dere, excidere, and signifieth in our common law, any lands, or other profits, that fall to a Lord within his Maner by way of forfeiture, or the death of his tenant, dying without heire generall, or especiall; or leaving his heire within age, or unmarried, *Magna Charta, cap. 31. Fitzher. nat. br. fol. 143. T. & C.* Escheat is also used sometime for the place or circuit within the which the King, or other Lord hath escheats of his tenents, *Bracton, lib. 3. tract. 2. ca. 2. & papilla oculi parte 2. cap. 22.* Escheat thirdly, is used for a writ, which lieth, where the tenant having estate of fee simple in any lands or tenements holden of a superior Lord, dyeth seised without heire generall or especiall. For in this case the Lord bringeth this writ against him that possesseth these lands after the death of his tenant, and shall thereby recover the same in lieu of his services, *Fitzh. nat. br. fol. 144.* These that wee call Escheats, are in the Kingdome of Naples called *Excadentia* or *bona excadentialia*, as: *Baro locat excadentias eo modo quo locata fuerunt ab antiquo: ita quod in nullo debita servitia minuantur, et non remittit gallinam debitam: Iacobutus de Franchie in preludis ad feudorum usum, tit. 1. num. 29. & num. 23. v. Maranta singularia, verbo Excadentia.* And in the

same signification, as wee say the fee is escheated, the Feudists use *feudum aperitur. lib. 1. feudal. titulo, 18. §. 2. titul. 15. & titul. 26. §. 4.*

Escheator (*Escaetor*) commeth of (*Escheate*) and signifieth an officer that observeth the Escheats of the King in the County, whereof hee is *Escheator*, and certifieth them into the *Eschequer*: This officer is appointed by the L. Treasurer, and by Letters Patents from him, and continueth in his office but one yeare, neither can any be *Escheator* above once in 3. yeares, *anno 1. H. 8. cap. 8. & anno 3. ejusd. ca. 2.* See more of this officer and his authority in *Cromptons Justice of peace. See an. 29. Ed. 1.* The forme of the *Escheatours* oath, see in the Register originall, *fol. 301. b. Fitzh.* calleth him an officer of record, *nat. br. fol. 100. C.* because that which hee certifieth by vertue of his office, hath the credit of a record. *Officium escaetria*, is the Escheatourship. *Registr. orig. fol. 259. b.*

Esuage (*Sontagium*) commeth of the French (*escu. i. clipeus*) a buckler or shield. In our common law, it signifieth a kind of Knights service, called service of the Shield, whereby the tenant holding, is bound to follow his Lord into the *Scottish* or *Welsh* wars, at his ovvne charge: for the

the vvhich see *Chivalrie*. But note that *Eſcuage* is either uncertaine or certaine. *Eſcuage* uncertaine, is properly *Eſcuage*, and Knights ſervice, being ſubject to homage fealty, ward and marriage, ſo called, becauſe it is uncertaine how often a man ſhall be called to follow his Lord into thoſe vvars, and againe, what his charge vvill be in each journey. *Eſcuage* certaine, is that vvhich yearely payeth a certaine rent in lieu of all ſervices, being no further bound then to pay his rent, called a Knights fee, or halfe a Knights fee, or the fourth part of a Knights fee, according to his land, and this leeſeth the nature of Knights ſervice, though it hold the name of *Eſcuage*, being in effect, *Soccage*, *Fitzherb. nat. br. fol. 84. C.*

Eſneey (*Eſneccia*) is a prerogative given to the eldeſt Coparcener, to chuſe firſt, after the inheritance is divided, *Flet. li. 5. ca. 10. §. in diuifionem.*

Eſplees (*Expletia*) ſeeme to be the full profits that the ground or land yieldeth, as the Hay of the Meadows, the Feed of the Paſture, the Corne of the Barable, the Rents, Services, and ſuch like iſſues: *Ingham*. It ſeemeth to proceed from the Latine (*Expleo*) The profits comprised under this vvord, the Romans call properly *acceſſiones*. *Nam acceſſionum no-*

mine intelliguntur ea generaliter omnia, qua ex re, de qua agitur, ori ſunt, veluti fructus, partus, & omnis cauſa rei, & quacunque ex re procedunt. li. 2. v. De in diem adjeſſio, li. 50. x. Ad Trebel, li. 61. §. hiis etiam. x. de furt. See the newv Termes of lavv.

Eſquier (*Armiger*) is in letters little altered from the French (*Eſcuyer. i. ſcutiger*) It ſignifieth vvith us a Gentleman, or one that beareth armes, as a teſtimony of his nobility or gentry. *S. Thomas Smith* is of opinion, that at the firſt, theſe were Bearers of armes to Lords and Knights, and by that had their name and dignity. Indeed the french vvord is ſometime tranſlated (*Agaso*) that is, a Boy to attend or keepe a horſe; and in old Engliſh writers, it is uſed for a Lackey, or one that carrieth the Shield or Speare of a Knight. *Maſt. Camden in his Britannia, pag. 111.* hath theſe vvords of them; having ſpoken of Knights: *Hiis proximi ſuere Armigeri, qui & ſcutiferi, hominesq; ad arma dicti, qui vel à clypeis gentilitiis, qua in nobilitatis inſignia geſtaut: vel quia principibus et maioribus illis nobilibus ab armis erant, nomen traxerunt. Olim enim ex hiis duo unicusq; militi ſerviebant, galeam clypeumq; geſtabant. &c.* *Horoman* in the ſixth chaprer of his Diſputations upon the Feods ſaith, that theſe which the

French men call (*Eſcuers*) were a Military kind of vaſſall having *ius ſenti*, which is as much to ſay (hee there interpreteth himſelfe) as that they bore a Shield, and in it the enſignes of their family, in token of their Gentility or Dignity.

Effendi quietum de telonio, is a writ that lieth for Citizens and Burgeſſes of any City or Towne, that have a Charter or Preſcription to exempt them from tolle, through the whole Realme, if it chance they be any where exacted the ſame, *Fitzh. nat. br. fol. 226. Regiſt. fol. 258.*

Effoine (*effonium*) commeth of the french (*effoné* or *exoné*. i. *cauſarius miles*) hee that hath his preſence forborne or excuſed upon any juſt cauſe, as ſickneſſe or other incumbrance. It ſignifieth in our common law, an alledge- ment of an excuſe for him that is ſummoned, or ſought for to appeare, and anſwer to an action reall, or to perſorme ſuit to a Court Baron, upon juſt cauſe of abſence. It is as much as (*excusatio*) with the Civilians. The cauſes that ſerve to *effoine* any man ſummoned, be diuers and infinite: yet drawne to five heads: whereof the firſt is (*ultra mare*) the ſecond (*de terra ſancta*) the third (*de malo veniendi*) which is alſo called the common *Effoine*, the fourth is (*de malo lecti*) the

fiſth (*de ſervitio Regis*.) For further knowledge of theſe, I refer you to *Glanvile*, in his whole firſt booke, and *Bracton*, li. 5. tra- ctat. 2. per totum and *Britton*, cap. 122, 123, 124, 125. and to *Horns mirrour of Juſtices*, li. 1. ca. des *Effoines*, who maketh mention of ſome more *effoines* touching the ſervice of the King celeſtiall, then the reſt doe, and of ſome other points not unworthy to be knowne. Of theſe *effoines* you may reade farther in *Flet.* li. 6. ca. 8. & ſeqq. and that theſe came to us from the *Normans*, is well ſhewed by the *Grand Cuſtumary*, where you may find in a manner all ſaid, that our Lawyers have of this matter, cap. 39, 40, 41, 42, 43, 44, 45.

Effoines and *proſers*, anno 32 H. 8. cap. 21. See *Proſer*.

Effonio de malo lecti, is a writ directed to the Sheriffe, for the ſending of foure lawfull Knights to view one that hath *effoined* himſelfe *de malo lecti*, *Regiſt. orig. fol. 8. b.*

Eſtabliſhment of dower, ſeemeth to be the aſſurance of dowry, made to the wive by the husband or his friends, before or at marriage. And aſſignment is the ſetting it out by the heire after- ward, according to the Eſta- bliſhment, *Britton*, cap. 102, & 103.

Eſtandard or *Standard*, com- meth

meth of the French (*estandard*) or *estendart*. i. *signum, vexillum*. It signifieth an Ensigne in war, as well with us as with them. But it is also used for the principall or standing measure of the King, to the scantling whereof, all the measures thoroughout the Land, are, or ought to be framed by the Clerke of the Market, *Aulneger*, or other Officer, according to their functions. For it was established by the Statute of *Magna Charta*, anno 6. H. 3. cap. 9. That there should bee but one scantling of Weights and Measures through the whole Realme, which is sithence confirmed by *Anno. 14. Edw. 3. cap. 12.* and many other Statutes; as also, that all should be fitted to the *Standard*, sealed with the Kings Scale. It is not called a Standard without great reason: because it standeth constant and immoveable, and hath all other Measures comming toward it for their conformitie, even as Souldiers in field have their Standard, or Colours for their direction in their march or skirmish. Of these Standards and Measures, reade *Britton*, cap. 30.

Estate, commeth of the French (*estat*. i. *conditio*) and signifieth especially in our common law, that Title or In-

terest, which a man hath in Lands or Tenements, as estate simple, otherwise called Fee-simple, and estate conditionall, or upon condition, which is, (as *Littleton* saith, *libro 3. caput 5.*) either upon condition in Deed, or upon condition in Law. *Estate* upon condition in Deed is, where a man by Deed indented, infeofeth another in fee, reserving to him, and to his Heires yearly, a certaine Rent, payable at one Feast, or at divers; upon condition, that if the Rent bee behinde, &c. that it shall bee lawfull to the Feoffour, and to his Heires, to enter in the Lands or Tenements, &c. *Estate* upon condition in Law, is such as hath a consideration in the Law annexed to it, though it be not specified in writing. For example, if a man grant to another by his Deed, the office of a Parker-ship for tearme of his life, this estate is upon condition in the Law, or employed by Law, viz. if the Parker so long, shall well and truly keepe the Parke, &c. I reade also of an estate particular, which is an estate for life, or for yeares, *Parkins Surrenders*, 581.

Estoppel, seemeth to come from the french (*estoper* i. *oppilare, obturare, stipare, obstipare*) and signifieth

fieth in our common law, an impediment or barre of an action growing from his owne fact, that hath, or otherwise might have had his action: for example: A Tenent maketh a feofment by collusion to one: the Lord accepteth the services of the feoffee: by this hee debaileth himselfe of the wardship of his tenents heire, *Fitz. nat. br. fol. 142. K.* Divers other examples might be shewed out of him, and *Broke b. titulo. Sir Edward Coke. lib. 2. casu Goddard, fol. 4. b.* defineth an *estoppel* to be a barre or hindrance unto one to pleade the truth, and restraineth it not to the impedimēt given to a man by his owne act onely, but by anothers also. *lib. 3. The case of Fines. fol. 88. a.*

Estovers (*Estoverium*) cometh of the french (*estouuer. i. fovere*) and signifieth in our common law, nourishment or maintenance. For example: *Bracton, lib. 3. tractat. 2. cap. 18. num. 2.* useth it for that sustenance, which a man taken for felonie, is to have out of his lands or goods for himselfe and his family, during his imprisonment: and the statute, *anno 6. Ed. prim. cap. 3.* useth it for an allowance in meat or cloath. It is also used for certaine allowances of wood, to bee taken out of another mans woods. So it is used *West. 2. cap.*

25. anno 13. Edw. 1. M. West parte 2. symbol. titulo Fines. Sect 26. saith, that the name of *Estovers* containeth House-bote, Hay-bote, and Plow-bote: as if hee have in his grant these generall words: *De rationabili estoverio in boscis, &c.* hee may thereby claime these three.

Estreperment, or *Estrepament*, (*estrepementum*) cometh of the french word (*estropier. i. mutilare, obtruncare*) the which word the French men have also borrowed of the Italians, or rather Spaniards, with whom (*Estropear*) signifieth to set upon the racke. It signifieth in our common law, spoile made by the tenent for terme of life, upon any lands or woods, to the prejudice of him in the reversion, as namely in the statute *anno 6. Ed. 1. ca. 13.* And it may seeme by the derivation, that *Estrepament* is properly the unmeasurable soaking or drawing of the heart of the land by Ploughing or Sowing it continually, without manuring, or other such usage, as is requisite in good Husbandrie. And yet (*Estropier* signifying *mutilare*) it may no lesse conveniently be applied to those, that cut downe Trees, or lop them farther then the law will beare. This signifieth also a writ, which lyeth in two sorts: the one is, when a man having an Action depend

ding (as a fardom, or *dum fuit infra atatem*, or Writ of right, or any such other) wherein the demandant is not to recover damages, sueth to inhibite the Tenant for making waste (during the suite. The other sort is for the Demandant, that is adjudged to recover seisin of the Land in question, and before execution, sued by the Writ *Habere facias seisinam*, for feare of waste to be made before hee can get possession, sueth out this Writ: See more of this, in *Fitzh. nat. br. fol. 60 & 61.* See the *Register. orig. fol. 76.* and the *Register, indicial. fol. 33.*

Extrate (*extratum* or *vel extrata*) commeth of the French (*Traict*) which among other things signifieth a figure or resemblance: and is used in our Common Lawe, for the copie or true note of an originall writing. For example, of ameracements or penalties set downe in the rolles of a Court, to be leaved by the Bayliffe or other Officer, of every man for his offence. See *Fitzh. nat. br. fol. 75. H. I. K. & 76. A.* And so is it used *Westm. 2. cap. 8. anno 13. Edw. 1.*

Estrey (*extrabura*) in our common Law signifieth any beast not wilde, found within any Lordship, and not owned by any man. For in this case, if it being cryed, according to Lawe, in the

market Townes adioyning, shall not bee claimed by the owner within a yeare and a day, it is the Lords of the soile. See *Britton cap. 17.* See *Estrayes* in the Forest, *anno 27. H. 8. cap. 7.* New booke of Entries. *verbo Trespas contra estrey.*

Evidence, (*evidentia*) is used in our Lawe generally for any prooffe, bee it testimony of men or instrument. *Sir Thomas Smith* vseth it in both sortes, *lib. 2. cap. 17.* in these words: Evidence, in this signification, is Authentick writings of contracts after the manner of England, that is to say, written, sealed, and delivered. And *lib. 2. cap. 23.* speaking of the prisoner that standeth at the barre, to pleade for his life, and of those that charge him with Felony, he saith thus: then hee telleth what he can say: after him likewise all those, who were at the apprehension of the prisoner, or who can give any Indices or tokens, which wee call in our language (*Evidence*) against the malefactor.

Examiner in the Chancerie, or Starre-Chamber, (*examinator*) is an Officer in either Court, that examineth the parties to any suite upon their oathes, or witnesses produced of either side: whereof there be in the Chauncerie two.

Exception, (*exceptio*) is a stoppe

or stay to an action, being vsed in the civill and common law, both alike, and in both divided into dilatory and peremptory. Of these see *Bracton lib. 5. tract. 5. per totum*, and *Britton cap. 91. 92.*

Exchange, (*excambium*, *vel cambium*) hath a peculiar signification in our Common Law, and is vsed for that compensation, which the warrantor must make to the warrantee, value for value, if the Land warranted be recovered from the warrantee, *Bracton lib. 2. cap. 16. & lib. ca. 1. 19* It signifieth also generally as much as (*Permutatio*) with the Civilians, as the Kings Exchange, *anno 1. H. 6. cap. 1. & 4. & anno 9. Edw. 3. statut. 2. cap. 7.* which is nothing else, but the place appointed by the King for the exchange of Bullion, bee it Gold or Silver, or Plate, &c. with the Kings coine. These places have beene divers heeretofore, as appeareth by the said Statutes. But now is there onely one, *viz.* the Tower of London conioyned with the Mint. Which in time past might not be, as appeareth by *anno 1. Henrici 6. cap. 4.*

Exchequer, See *Eschequer*.

Excheatour, See *Escheatour*.

Excommunication, (*excommunicatio*) is thus defined by *Panormitan*: *Excommunicatio est nihil aliud, quam censura à Canone, vel Indice ecclesiastico prolata & infli-*

cta, privans legitima communione sacramentorum, & quandoque hominum. And it is divided in *maior* & *minor*. *Minor* est, per quam quis a Sacramentorum participatione conscientia vel sententia arcetur. *Maior* est, quæ non solum à Sacramentorum, verum etiam fidelium communione excludit, & ab omni actus legitimo separat & dividit. *Venatorius de sentent. excom.*

Excommunicato capiendo, is a Writ directed to the Sheriffe, for the apprehension of him, who standeth obstinately excommunicated for forty dayes: for such a one not seeking absolution, hath or may have his contempt certified or signified into the Chancery, whence issueth this Writ, for the laying of him up without Baile or Mainepriise, vntil he conforme himselfe. See *Fitzh. nat. br. fol. 62. & anno 5. Eliz. cap. 23.* and the *Register. orig. fol. 65. 67. & 70.*

Excommunicato deliberando, is a Writ to the vnder Sheriffe, for the delivery of an excommunicat person out of prison, upon certificate from the Ordinary, of his conformity to the Iurisdiction Ecclesiasticall. See *Fitzh. nat. br. fol. 63. A.* and the *Register. fol. 65 & 67.*

Excommunicato recipiendo, is a Writ, wherby persons excommunicate, being for their obstinacie committed to prison, and vnlawfully

lawfully delivered thence, before they have given caution to obey the authority of the Church, are commanded to be sought for and laid up againe, *Regist. orig. fol. 67. a.*

Executione facienda, is a writ commaunding execution of a judgement: the divers uses whereof, see in the table of the Register judiciall. *verbo Executione facienda.*

Executione facienda in Withernamium, is a writ that lyeth for the taking of his cattell, that formerly hath conveyed out of the County the cattell of another, so that the Bailiffe having authority from the Sheriffe, to replevie the cattell so conveyed away, could not execute his charge, *Reg. orig. fol. 82. b.*

Execution (Executio) in the common law, signifieth the last performance of an act, as of a fine, or of a judgement. And the execution of a fine, is the obtaining of actuall possession of the things contained in the same, by vertue thereof: which is either by entry into the lands, or by writ: whereof see *West* at large, *parte 2. Symbol. titulo Fines. Sect. 136, 137, 138.* Executing of judgements, and statutes, and such like, see in *Fitzh. nat. br. in Indicc. 2. Verbo Execution. S. Ed. Coke. vol. 6. casu Blumfield. fol. 87. a.* maketh two sorts of Executions:

one finall, another with a (*Quousque*) tending to an end. An Execution finall, is that which maketh money of the Defendants goods, or extendeth his lands, and delivereth them to the Plaintiffe. For this the party accepteth in satisfaction: and this is the end of the suit, and all that the Kings writ commandeth to bee done. The other sort with a (*Quousque*) is tending to an end, and not finall, as in the case of (*capias ad satisfaciendum, &c.*) this is not finall: but the body of the party is to be taken, to the intent and purpose to satisfie the Demandant: and his imprisonment is not absolute, but untill the Defendant doe satisfie, *Idem. ibid.*

Executour (Executor) is hee, that is appointed by any man, in his last Will and Testament, to have the disposing of all his substance, according to the content of the said Will. This Executor is either particular or universall. *Particular*, as if this or that thing onely bee committed to his charge. *Universall*, if all. And this is in the place of him, whom the Civilians call *Heredem*, and the Law accounteth one person with the party, whose Executor hee is, as having all advantage of action against all men, that he had, so likewise being subject to every mans action, as farre as himselfe was. This Executor had

his beginning in the civill law, by the constitutions of the Emperours, who first permitted those, that thought good by their wills to bestow any thing upon good and godly uses, to appoint whom they pleased, to see the same performed, and if they appointed none, then they ordained, that the Bishop of the place should have authority of course, to effect it, *l. 28. C. de Episcopis & clericis*. And from this in mine opinion, time and experience hath wrought out the use of these universall Executors, as also, brought the Administration of their goods that dye without will, unto the Bishop.

Exemplificatio, is a writ granted for the exemplification of an originall, see the *Register original*, fol. 290.

Ex gravi querela, is a writ that lieth for him, unto whom any lands or tenements in fee, within a City, town or Borough, being devisable, are devised by will, and the heire of the devisour entreth into them, and detaineth them from him, *Register original*, fol. 244. *Old nat. br.* fol. 87. See *Fitzh. nat. brev.* fol. 198. *L.*

Exigendarie of the common banke (*Exigendarius de banco comuni*) is otherwise called *Exigenter*, anno 10. H. 6. cap. 4. and

is an officer belonging to that Court, for the which see *Exigenter*.

Exigent (*Exigenda*) is a writ that lyeth where the Defendant in an action personall, cannot be found, nor any thing within the County, whereby to be attached or distrained, and is directed to to the Sheriffe, to proclaime and call five County daies one after another, charging him to appeare under the paine of Outlawrie. *Termes of the Law*. This writ lyeth also in an indictment of Felony, where the party indicted cannot be found: *Smith de Rep. Angl. li. 2. ca. 19*. It seemeth to be called an *Exigent*: because it exacteth the party, that is, requirerth his appearance, or forthcoming, to answer the law, for if hee come not at the last dayes Proclamation, hee is said to be *quinqies exactus*, and then is outlawed, *Crompton. Jurisd.* fol. 188. and this *M. Manwood* also setteth downe for the law of the Forest, par. 1. of his Forest lawes pag. 71. See the new booke of *Entries*, verbo *Exigent*.

Exigenter (*Exigendarius*) anno 18. H. 6. ca. 9. is an officer of the court of Common ples, of whom, there be foure in number: they make all *Exigents* and *Proclamations* in all actions, where proesse of outlawry doth lie, and writs of *Supersedeas*, as well

well as the Protonotaries, upon such exigents as were made in their offices.

Ex mero motu, are words formerly used in any Charter of the Prince, whereby hee signifieth, that he doth that, which is contained in the Charter, of his owne will and motion, without petition or suggestion made by any other. And the effect of these words are to bar all exceptions, that might be taken unto the instrument wherein they be contained, by alleging that the Prince in passing that Charter, was abused by any false suggestion, *Kuchin. fol. 152.*

Exoneracione secta, is a writ that lyeth for the Kings ward, to be disburthened of all suit, &c. to the Countie, Hundred, Lect, or Court Baron, during the time of his wardship, *Fitzh. nat. br. fol. 158.*

Ex parte latis, is a writ that lyeth for a Bailiffe, or Receiver, that having Auditours assigned to heare his account, cannot obtaine of them reasonable allowance, but is cast into prison by them, *Regist. fol. 137. Fitzh. nat. br. fo. 129.* The manner in this case, is to take this writ out of the Chancery, directed to the Sheriffe, to take foure Mainpervours to bring his body before the Barons of the Exchequer at a day certaine, and to warne the Lord

to appeare at that time: New Termes of the Law, *verbo Account.*

Expectant, is used in the common law with this word (*fee*) and thus used, it is opposite to fee-simple. For example, lands are given to a man and his wife in franck mariage, to have and to hold to them and their heires. In this case they have fee simple. But if it be given to them, and the heires of their body, &c. they have tayle, and *fee expectant.* *Kuchin. fol. 153.* Mathews de *assuetis* useth the Adjective (*expectativa*) substantively in the same signification, *Descif. 292. num. 2. pag. 412.*

Explees. See *Espleese.*

Expeditate (*expeditare*) is a word usuall in the Forest, signifying, to cut out the balles of the great dogges feet, for the preservation of the Kings game. Every one that keepeth any great dogges not expeditated, forfeiteth to the King 3. shillings 4. pence, *Crompt. Jurisd. fol. 152.* M. Manwood useth the same word, *parte prim.* of his Forest lawes, *pag. 205.* and *pag. 212.* hee setteth downe the manner of expeditating dogges heeretofore, *viz. Quod tres orcelli abscindantur sive pellota de pede anteriori.* i. that the three clawes of the forefoot on the right side shall be cut off by the skin, whereunto hee also

addeth out of the same ordinance, called the Assise of the Forest, that the same manner of expediting of Dogs, shall be still used and kept, and none other. *Quere* whence it groweth, that *Master Crompton* and hee differ: the one saying, that the ball of the foot it cut out, the other that the three fore clawes are pared off by the skin.

Expensis militum levandis, is a writ directed to the Sheriffe, for levying the allowance for Knights of the Parliament, *Regist. orig. fol. 191. b.*

Expensis militum non levandis ab hominibus de antiquo dominico, nec à natis, is a writ whereby to prohibit the Sheriffe from levying any allowance for the Knights of the Shire, upon those that hold in ancient Demesne, &c. *Reg. orig. fol. 261. b.*

Extend (extendere) commeth of the french (*estendre. i. dilatare, dispendere, distendere*) and signifieth in our common law, to value the Lands or Tenements of one bound by Statute, &c. that hath forfeited his Bond, to such an indifferent rate, as by the yearly rent, the Obligour may in time bee paid his debt. The course and circumstances of this see in *Fitzherb. nat. br. fol. 131. Brief d'execution sur statut Merchant.*

Extendi facias, is a writ ordi-

narily called a writ of Extent, whereby the value of lands, &c. is commanded to bee made and levied in divers cases, which see in the table of the *Register originall.*

Extent (extenta) hath two significations, sometime signifying a Writ or Commission to the Sheriffe for the valuing of Lands or Tenements. *Register judiciale* in the Table of the booke: sometime the act of the Sheriffe or other Commissioner, upon this writ, *Broke, titulo. Extent. fol. 313.*

Extinguishment, in our common law, signifieth an effect of consolidation. For example, if a man have due unto him a yearly rent out of any lands, and afterward purchase the same lands, now both the property and rent are consolidated, or united in one possessor, and therefore the rent is said to be extinguished. In like manner it is, where a man hath a lease for yeares, and afterwards buyeth the property: this is a consolidation of the property and the fruits, and is an extinguishment of the Lease. See the *Termes of Law.*

Extirpatione, is a writ Iudiciall, that lyeth against him, who after a verdict found against him for land, &c. doth maliciously overthrow any house upon it, &c. and it is two-fold, one *ante judi-*

cium, the other *post iudicium*: Register *iudiciall*, fol. 13, 56, 58.

Extorsion (*Extortio*) signifieth in our common law, an unlawfull or violent wringing of mony or mony worth from any man. For example, if any officer by terrifying any the Kings subjects in his office, take more then his ordinary duties, hee commiteth, and is inditeable of Extortion: To this (by *M Wests* judgement) may be referred the exaction of unlawfull Usurie, winning by unlawfull Games, and (in one word) all taking of more then is due, by colour, or pretence of right: as excessive tolle in Milners, excessive prizes of Ale, Bread, Victuals, Wares, &c. *West*, parte 2. *Symbol. titulo Indictments*, Sect. 65. *M. Manwood* saith, that Extortion is *Colore officii*, and not *virtute officii*, parte 1. of his *Forest lawes*, pag. 216. *M. Crompton* in his *Iustice of peace*, fol. 8. hath these words in effect: Wrong done by any man, is properly a Trespasse: but excessive wrong done by any is called Extortion: and this is most properly in officers, as Sheriffes, Maiors, Bailiffes, Escheatours, and other officers whatsoever, that by colour of their office worke great oppression, and excessive wrong unto the Kings subjects, in taking excessive reward, or fees, for the execution of their office. Great diversity of

cases touching Extortion, you may see in *Cromptons Iustice of peace*, fo. 48. b. & 49. & 50. See the difference betweene *colore officii*, & *virtute vel ratione officii*. *Plow. casu. Dives*, fol. 64. a. This word is used in the same signification in Italy also. For *Cavalcanus de brachio regio*, parte 5. num. 21. thus describeth it: *Extortio dicitur fieri quando Index cogit aliquid sibi dari quod non est debitum, vel quod est ultra debitum: vel ante tempus petit id, quod post administratam iustitiam debetur.*

Extreats. See *Estreats*.

Eyre. See *Eire*.

F A

Faculty, (*Facultas*) as it is restrained from the originall and active signification, to a particular understanding in law, is used for a priviledge, or especiall power granted unto a man by favour, indulgence and dispensation, to doe that which by the common law hee cannot doe: as to cate flesh upon daies prohibited, to marry without Banes first asked; to hold two, or more Ecclesiasticall Livings, the Son to succeed the Father in a Benefice, and such like. And for the granting of these, there is an especiall officer under the Archbishop of *Canterbury*, called (*Magister ad Facultates*) the Master of the Faculties.

Fag, anno 4. *Ed. 4. cap. 1.*

Faint and false action, seeme to be *Synonima* in *Littleton, fol. 144.* for (*faint*) in the french tongue signifieth as much as (*fained*) in English.

Faint pleader (*falsa placitatio*) commeth of the french (*feint*) a Participle of the verbe (*feindre, i. simulare, fingere*) and (*ple-doir, i. placitare*) It signifieth with us, a false covenous, or collusory maner of pleading, to the deceite of a third party, anno 34. & 35. *H. 8. cap. 24.*

Faire, alias Feire, (feria) commeth of the french (*foire*) and signifieth with us, as much as (*Nandina*) with the Civilians: that is a solemne, or greater sort of Market, granted to any Town by priviledge, for the more speedy and commodious provision of such things, as the subject needeth, or the utterance of such things, as we abound in, above our owne uses and occasions: both our English and the French word seeme to come of (*Feria*) because it is alwaies incident to the priviledge of a *Faire*, that a man may not be arested or molested in it for any other debt, then first was contracted in the same, or at least was promised to bee payed there, anno 17. *Ed. 4. cap. 2. & anno 1. R. 3. cap. 6.*

Faire pleading, see *Beau pleader.*

Faitours, seemeth to be a french word antiquated, or something traduced. For the modern french word is (*faiseur, i. factor.*) It is used in the Statute, anno 7. *R. 2. cap. 5.* And in the evill part, signifying a bad doer. Or it may not improbably bee interpreted an idle liver, taken from (*faitardise*) which signifieth a kind of numme or sleepy disease, proceeding of too much sluggishnesse, which the Latines call (*veternus.*) For in the said statute it seemeth to be a *Synonymon* to *Vagabond.*

Falke land, alias, Folkland. See *Copy-hold* and *Free-hold.*

False imprisonment (*falsum imprisonmentum*) is a trespassse committed against a man, by imprisoning him without lawfull cause: it is also used for the writ which is brought upon this trespassse, *Fitzh. nat. br. fol. 86. K. & 88. P. v. Broke b. 1.* See the new booke of Entries, *verbo. False imprisonment.*

Falso judicio, is a writ, that lyeth for false judgement given in the County, Hundred, Court Baron, or other Courts, being no Court of Record, be the plea reall or personall, *Regist. orig. fol. 15. Fitzh. nat. br. fol. 17.* See the new booke of Entries, *verbo False judgement.*

False prophecies. See *Prophecies.*

Falso retorno brevium, is a writ
lying

lying against the Sheriffe, for
false returning of writs, *Register*
judic. fol. 43. b.

Falsific, seemeth to signifie as
much, as to prove a thing to be
false, *Perkins Dower, 383, 384,*
385.

Farding, or farthing of gold,
seemeth to bee a Coine used in
ancient times, containing in va-
lew the fourth part of a noble,
viz. twenty pence silver, and in
weight the sixth part of an ounce
of gold, that is, of five shillings
in silver, which is three pence and
something more. This word is
found *anno 9. H. 5. stat. 2. cap. 7.*
thus: Item, that the King doe
to be ordained good and just
weight, of the noble, halfe noble,
and farthing of gold, with the
rates necessary to the same, for
every City, &c. by which place
it plainly appeareth, to have been
a Coine, as well as the noble and
halfe noble.

Farding deale, al. *Farundell* of
land (*Quadrantata terre*) signi-
fieth the fourth part of an Acre.
Crompt. Juris. fo. 220 Quadrantata
terra, is read in the *Reg. orig. fo. 1.*
b. where you have also *Denariata*
& *obolata*, *solidata*, & *librata ter-*
ra, which by probability must
rise in proportion of quantity
from the farding deale, as an half-
peny, penny, shilling, or pound
rise in value and estimation: then
must *obolata* be halfe an Acre, de-

variata the Acre, *solidata* twelve
Acres, and *librata* 12. score Acres,
and yet I find (*viginti libratas*
terra vel redditus.) *Registr. origin.*
fol. 94. a. & fol. 248. b. Where-
by it seemeth, that *librata terra*,
is so much as yieldeth twenty
shillings *per annum*, and *centum*
soliditas terrarum tenementorum
& *reddituum. fol. 249. a.* And
in *Fissherb. nat. br. fol. 87. F.* I
find these words: *viginti libratas*
terra vel redditus, which argueth
it to be so much land as twenty
shillings *per annum*. See *Fur-*
long.

Fate or *Fas*: is a great woo-
den vessell, which among Brew-
ers in *London*, is ordinarily used
at this day, to measure Mault
by, containing a quarter, which
they have for expedition in mea-
suring. This word is read *anno 1.*
H. 5. cap. 10. & anno 11. H. 6.
cap. 8.

Faalty (*fidelitas*) commeth of
the French (*feaulte. i. fides*) and
signifieth in our common law,
an oath taken at the admittance
of every tenant, to be true to the
Lord, of whom hee holdeth his
land. And hee that holdeth land
by this onely oath of fealty, hol-
deth in the freest maner, that any
man in *England* under the King
may hold: because all with us
that have fee, hold (*per fidem &*
fiduciam) that is, by fealty at the
least, *Smith de Repub. Anglor. li. 3.*

cap. 8. for, *fidelitas est de substantia feudi*, as *Duarenus* saith de feud. cap. 2. num. 4. and *Mathæus de afflicis decis.* 320. num. 4. pag. 465. saith, that *fidelitas est substantiale feudi, non servitium*. The particulars of this oath, as it is used among the Feudists, you may reade well expressed by *Zafius* in his *Tractate de feudis. parte 7. nu. 5. & 16.* which is worth the comparing with the usuall oath taken here in our part of *Britanie*. This fealty is also used in other nations, as the *Lombards* and *Burgundians* *Cassanæus de consuet. Burgund.* pag. 419. & 420. And indeed the very first creation of this tenure, as it grew from the love of the Lord toward his followers, so did it bind the tenant to fidelity, as appeareth by the whole course of the Feods. And the breach thereof is losse of the fee. *Duarenus in Commentariis feudorum, cap. 14. nu. 11. & Wesebeckius in tract. de feudis. cap. 15. nu. 4. & seqq.* *Antonius Contius in methodo feudorum cap. Quibus modis feudum amittitur.* *Hotoman* in his *Commentaries (De verbis feudalis)* sheweth a double fealty: one generall, to be performed by every subject to his Prince: the other speciall, required onely of such, as in respect of their fee, are tyed by this oath toward their Land-lords: both wee may reade of in the *Grand Customary*

of *Normandy*, being of course performed to the Duke, by all resident within the Dutchie. The effect of the words turned into Latine by the Interpreter, is this: *Fidelitatem autem tenentur omnes residentes in Provincia Duci facere & servare: Unde tenentur se ei innocuos in omnibus & fideles exhibere, nec aliquid ipsum incommodi procurare: nec ejus inimicis præbere contra ipsum consilium vel juvamen: & qui ex hoc inventi fuerint ex causa manifesta, notabiles & traditores Principis reputantur. Et omnes eorum possessiones perpetua Principi remanebunt, si super hoc convicti fuerint vel damnati: Omnes enim in Normania tenentur Principi fidelitatem observare. Unde nullus homagium vel fidelitatem alicujus potest recipere, nisi salva Principis fidelitate. Quod etiam est in eorum receptione specialiter exprimendum. Inter Dominos autem alios & homines fides taliter debet observari, quod neuter in personam alterius personalem violentiam, seu percussionis injectionem cum violentia, debet irrogari. Si quis enim eorum ex hoc fuerit accusatus in curia & convictus, feudum omne debet amittere, &c.* This fealty speciall is with us performed either by Free-men or by Villaines. The forme of both see anno 14. Ed. 1. stat. 2. in these words: When a Free-man shall doe fealty to his Lord,

Lord, hee shall hold his right hand upon a booke, and shall say thus: Heare you my Lord R. that *I. P.* shall be to you both faithfull and true, and shall owe my fealty to you for the land that I hold of you at the termes assigned: So helpe me God and all his Saints. When a villaine shall doe fealty unto his Lord, hee shall hold his right hand over the booke, and shall say thus: Heare you my Lord A. that *I. B.* from this day forth unto you shall be true and faithfull, and shall owe you fealty for the land that I hold of you in Villenage, and shall be justified by you in body and goods: So helpe mee God and all his Saints. See the *Regist. orig. fol. 302. a.*

Fee (*Feodum, aliàs Feudum*) commeth of the french (*fief. i. pradium beneficiarum, vel res clientelaris*) and is used in our common law, for all those lands which wee hold by perpetuall right: as *Hotoman* well noteth, *verb. Feodum. de verbis feudalibus.* Our ancient Lawyers, either not observing whence the vword grew, or at the least, not sufficiently expressing their knowledg, what it signified among them, from whom they tooke it. *Feudum*, whence the word (*Fief*) or *fee* cometh, signifieth in the German language (*beneficium cuius nomine opera quadam gratia testi-*

ficanda causa debentur, Hot. disput. cap. 1. And by this name goe all lands and tenements, that are held by any acknowledgement of any superiority to a higher Lord. They that write of this subject, doe divide all Lands and Tenements, wherein a man hath a perpetuall estate to him and his heires, &c. into *Allodium & Feudum.* *Allodium* is defined to be every mans ovvne land, &c. which hee possesseth meerely in his own right, without acknowledgement of any service, or payment of any rent unto any other, and this is a property in the highest degree, and of some it is called (*Allodium ab à privativa particula, & landum vel landatio, ut sit pradium cuius nullus author est nisi deus. Est enim laudare vel Novio teste, nominare. Quod & Budaus docuit ad Modestinum. l. Herennius 63. de here. instit. Prateus, verbo Allodium. Hotoman in verb. feud.* *Feudum* is that, which wee hold by the benefit of another, and in the name whereof wee owe service, or pay rent, or both, to a superior Lord. And all our land here in England (the Crowne land which is in the Kings owne hands in the right of his Crowne excepted) is in the nature of *Feudum* or *fee*, for though many a man hath land by descent from his Ancestours, and many another hath

dearely bought land for his money, yet is the land of such nature, that it cannot come to any, either by descent or purchase, but with the burthen that was laid upon him, who had novell fee, or first of all received it as a benefit from his Lord, to him and to all such, to whom it might descend, or any way be conveyed from him. So that if we will reckon with our Host (as the proverbe is) there is no man here, that hath *directum dominium*, i. the very propertie or demaine in any Land, but the Prince in the right of his Crowne. *Camd. Britan. pag. 93.* for though hee that hath fee, hath *jus perpetuum & utile dominium*: yet hee oweth a duty for it: and therefore is it not simply his owne. Which thing I take those words, that wee use for the expressing of our deepest rights in any lands or tenements, to import: for hee that can say most for his estate, saith thus: I am seised of this or that land or tenement in my demaine, as of fee. *Seisus inde in dominico meo ut de fundo*, and that is as much, as if hee said, it is my demaine or proper land after a sort: because it is to mee and mine heires for ever: yet not simply mine, because I hold it in the nature of a benefit from another, yet the statute *anno 37. H. 8. ca. 16.* useth these words of lands invested in the Crowne:

but it proceedeth from the ignorance of the nature of this word (*Fee*) for fee cannot be without fealty sworn to a Superiour, as you may reade partly in the word (*Fealty*) but more at large in those that write *de feudis*: and namely *Hotoman*, both in his Commentaries and Disputations. And no man may grant, that our King or Crowne oweth fealty to any superior but God onely. Yet it may be said, that lands, &c. with us is termed fee in two respects: one, as it belongeth to us and our heires for ever: and so may the Crowne land be called Fee: the other, as it holdeth of another, which is, and must be farre from our Crowne. *Britton, ca. 32.* defineth fee to this effect. Fee is a right consisting in the person of the true heire, or of some other, that by just title hath purchased it. *Fleta* saith that *Fendum est quod quis tenet ex quacunque causa sibi & heredibus suis, sive sit tenementum, sive redditus, qui non proveniunt ex camera, & alio modo dicitur fendum, sicut ejus qui seoffat, & quod quis tenet ab alio: sicut dicitur: talis tenet de tali tot fenda per servitium militare. li. 5. ca. 5. §. Fendum autem.* And all that write *de feudis*, doe hold that (*Fendatarius*) hath not an entire property in his fee: Nay, it is held by right learned men, that these fees were at the first invention or creation of

of them, either all or some of them temporarie, and not perpetuall and hereditarie. *Iacobinus de Franchis in praludio fend. ca. 2. num. 133.* The divisions of (fee) in divers respects are many, and those though little knowne to us in England, yet better worthy to be knowne, then wee commonly thinke. But for our present purpose, it is sufficient to divide Fee into two sorts: *Fee absolute*, otherwise called simple: and *Fee conditionall*, otherwise termed fee tayle: *Fee simple (Feudum simplex)* is that, whereof wee are seised in these generall words (to us and our heires for ever.) *Fee tayle (Feudum talliatum)* is that, whereof wee are seized to us and our heires with limitation, that is, the heires of our body, &c. And fee tayle is either generall or speciall. Generall is, where land is given to a man and the heires of his body. The reason whereof is given by *Littleton, ca. 2. li. 1.* because a man seised of land by such a gift, if hee marry one or more wives, and have no issue by them, and at the length marie another, by whom hee hath issue, this issue shall inherit the land: Fee tayle speciall is that, where a man and his wife bee seised of lands to them, and the heires of their two bodies. The reason is likewise given by *Little-*

ton in the same place, because in this case, the wife dying without issue, and he marrying another, by whom hee hath issue, this issue, cannot inherit the land, being specially given to such Heires, &c. this Fee tayle hath the originall, from the Statute of *West. 2. cap. 1.* which was made anno 13. Ed. 1. yet see *Bracton. li. 2. cap. 5. num. 3. huius verbis.* Item *quadam absoluta & larga, & quadam stricta & coarctata, sicut certis heredibus*, to whom added *Plowden, casu Willion. fo. 235. a. b. & seqq* for before that Statute, all Land given to a man and his heires, either generall or speciall, was accounted in the nature of Fee: and therefore held to be so firmly in him to whom it was given: that, any limitation notwithstanding, hee might alienate and sell it at his pleasure: much like that which the Civilians call (*Nudum preceptum*) binding rather by way of counsell and advice, then compulsion or restraint: And this thing seeming vnreasonable to the wisdom of our Realme, because so a man meaning well to this or that posteritie of himselfe or his friends, might bee forthwith deceived of his intention, the said Statute was made for redresse of this inconvenience, whereby it is ordained, that if a man give Lands in Fee, limiting the Heires to whom it shall descend, with a rever-

on to himselfe or his heires for default, &c. that the forme and true meaning of his gift, shall be observed. Wherefore in what conscience our Lawyers have invented meanes, so easily to cut off this forme of gift, it is to bee considered. Hee that hate Fee then, holdeth of another by some duty or other, which is called service, and of this service and the diversitie thereof. See *Chivalrie* and *Service*. Hee that will learne from what Fountaine these Feuds or fees did first spring let him read *Antonius Continus* his first chapter *de methodo feudorum*, where he shall receive great light for his guide into so obscure a dungeon. See *Liege*. This word, (*Fee*) is sometimes vsed with vs, for the compasse or circuit of a Lordship or Maner. *Bratton. lib. 2. cap. 5.* in these words: *In eadem villa & de eodem feodo*. Thirdly it is used for a perpetuall right incorporeall: as to have the keeping of Prisons in Fee. *Old. nat. br. fol. 41.* Foster in Fee, *eod. fol. 6.* Rent graunted in Fee, *eod. fol. 8.* Sheriffe in fee. *ann. 28. Ed. 1. stat. 3. cap. 8.* Lastly, Fee signifieth a reward or ordinary dutie, that a man hath given him for the execution of his office, or the performance of his industrie in his art or science: as the Lawyer or the Phisitian is said to have his Fee, when he hath the considera-

tion of his paines taken, the one with his Client, the other with his Patient.

Fee expectant. is by the Feudists termed *feudum expectativum*, or *expectativa*, substantively vsed, *Mathaus de Afflictis decis. 292. num. 2. pag. 417.* See *expectant.*

Fee ferme (*feudi firma*) is a compound of *Fee*: whereof see (*Fee*) and (*ferme. i. colonia, villa, pradium, rusticum* of (*Ferme*) commeth *Fermier du prince. i. maneps, redemptor publicorum vectigalium, Publicanus.*) *Fee ferme* signifieth in our common Law, land held of another in Fee, that is in perpetuie to himselfe and his heires, for so much yearely rent, as it is reasonably worth, more or lesse, so it bee the fourth part of the worth, *old tenures*. See exposition of the Statute of *Golcester, anno 6. Edw. 1.* without homage, fealtie, or other services, other then be especially comprised in the feoffment, but by *Fitzh.* it seemeth that the third part of the value may bee appointed for the rent, or the finding of a Chaplaine to sing divine Service, &c. *nat. brev. fol. 210. C.* And the nature of it is this, that if the rent be behind and vnpaid for the space of two yeares, then the Feoffour or his heires have action to recover the lands as their demesnes: *Britton. cap. 66. num. 4.* but observe ont of *West. symbol. par. 1. lib. 2. sect. 463* that

that the feofment may containe services and fuite of Court, as wel as rent: and the Author of the new Termes of Lawe, saith, that *Feeferme* oweth fealtie, though not expresse in the feofment, for that fealtie belongeth to all kinde of tenures: This is neere the nature of that, which among the Civilians is called (*ager vectigalis*, *qui in perpetuum licetur*, i. *hac lege ut quam diu pro eo vectigal pendatur, tam diu neq. ipsis qui conduxerunt, neq. ijs. qui in locum eorum successerunt, auferri eum liceat. lib. 1. v. si ager vectigalis, &c.*

Feede (*Feida* alias *faida*) signifieth in the German tongue *Gueram*. i. (*capitales inimicitias vel bellum*) *Hotoman* disputat. de feudis ca. 2. *B. Fœmina* dicitur *faidam* non facere. gloss. in *S. ult. de lege Conradi lib. 2. de feudis*, by reason that women by the Law, are not subiect to warfare, to bartell or proclamation made for that cause. *Skene* de verbo signif. verbo *Affidatio*. *M. Lamberd* in his explication of *Saxon* words writeth it (*Feeth*) and saith likewise that it signifieth *capitales inimicitias*, and also that (*Fend*) vsed now in Scotland and the North parts of England, is the same, and that is, a combination of kindred to revenge the death of any of their blood against the killer and all his race.

Felonie (*felonia*) seemeth to

come of the French (*Felonnie*. i. *impetuositas, atrocitas, immiser cordia*) *Felonia* (saith *Hotoman* de *verbis feudalibus*) non præscisè contumaciam vassalli in dominum, huiusve in vassallum perfidiam significat, verum quodvis capitale facinus.

And againe. *Felonia* *Gothis & Longobardis* dicitur quod Germanis hodie *Schelmarey*, Latinis *Scelus*, *S. Ed. Coke* saith thus, *Idio dicta est felonia qua fieri debet felleo animo. lib. 4. fol. 124. b. Hostiensis* in sua summa titulo, *De feudis*, and others speak of this to this effect. *Felonia*, aliàs *Falonia* est culpa vel injuria, propter quā vassallus amittit feudum. Sed hec respicit dominū fudi. Est et alia fallonia que non respicit dominum, sc. quando vassallus interficit fratrem vel filium suum, vel filium fratris, vel aliud crimen cōmisit quod parricidii appellatione continetur, & plures alie fallonie tam respicientes dominum, quā alios propter quas feudum amittitur ibi notantur. Wee account any offence *Felonie* that is in degree next unto *Petit treason*, and compriseth divers particulars under it, as murther, theft, killing of a mans selfe, *Sodometic*, Rape, wilfull burning of houses, and divers such like, which are to bee gathered especially out of Statutes, whereby many offences are dayly made *Felonie*, that before were not. *Felonie* is discerned from lighter

ter offences by this, that the punishment thereof is death. How be it this is not perpetuall. For *petit larcenie*, (which is the stealing of any thing vnder the value of twelue pence) is Felony, as appeareth by *Broke titulo Coron. num. 2.* his reason is, because the Indictment against such a one must runne with these words, (*felonice cepit*) and yet is this not punished by death though it be losse of goods. Any other exception I know not, but that a man may call that *felony*, which is under *petit treason*, and punished by death. And of this there be two sorts: one lighter, that for the first time may be releevd by Cleargie, another, that may not. And these you must also learne to know by the Statutes: for Cleargy is allowed, where it is not expressly taken away. Of these matters reade *Stawnfords* first booke of his *pl. cor.* from the ende of the second Chapter, to the 39. and the Statutes whereby many offences bee made felony, since hee writ that learned Booke. See also *Lamberds Justice of Peace, lib. 2. cap. 7.* in a Table drawne for the purpose. As also *lib. 4. cap. 4. pag. 404.* and *Cromptons* in his *Iustice of Peace. fol. 32. &c.* Felony is also punished by losse of Lands not entailed, and goods or chattels, as well reall as personall: and

yet the Statutes make difference in some cases touching Lands, as appeareth by the Statute, *anno 37. H. 8. cap. 6.* Felony ordinarily worketh corruption of blood, though not, where a Statute ordaineth an offence to bee felonie, and yet withall saith, that it shall not worke corruption of blood. As *anno 39. Eliz. cap. 17.* How many waies Felony is committed, See *Cromptons Iustice of peace, pag. 32. &c.*

Feyre, See *Fayre*.

Felo de se, is he that committeth felony by murdering himselfe. See *Cromptons Iustice of Peace, fol. 28.* and *Lamberds Erenarcha. lib. 2. cap. 7. pag. 243.*

Fencemoneth, is a moneth, wherein it is vnlawfull to hunt in the Forest, because in that moneth the Female Deere doe faunce: and this moneth beginneth 15 dayes before Midsummer, and endeth 15. dayes after. So that to this moneth there be 31. daies. See *Manwood parte prim.* of his Forest Lawes, *pag. 80.* bur more at large *parte secunda cap. 13. per totum.* It is also called the defence moneth, that is, the forbidden moneth, and the word defence is vsed in like sort. *West. 2. cap. 47. anno 13. Edw. 1.* in these words: All waters where Salmons bee taken, shall be in defence for taking of Salmons from the Nativitie, &c.

Fennycricke, or rather *Fenegreeke*, (*Fœnum Græcum*) is a medicinall plant or herbe, so called, because it groweth like Hey, and commeth out of Greece. Of this you may reade more in *Gerards Herball*, li. 2. ca. 483. The seed thereof is reckoned among drugs, that are to be garbled, anno 1. *Iacob*. cap. 19.

Feofment (*feoffamentum*) by the opinion of *Sir Thomas Smith de Repub. Anglor.* lib. 3. cap. 8 and *M. West parte prim. symbol lib. 2. Sect. 280.* is descended from the Gottish word (*Fendum*) which you have interpreted in (*Fee*) and signifieth (*donationem feudi.*) But (as *M. West* also addeth) it signifieth in our common law, any gift, or grant of any Honors, Castles, Manors, Mesuages, Lands, or other corporall and immoveable things of like nature, unto another in fee simple, that is to him and his heires for ever, by the delivery of seisin and possession of the thing given, whether the gift bee made by word or writing. And when it is in writing, it is called a deed of feofment, and in every feofment the giver is called the Feoffour (*feofator*), and hee that receiveth by vertue thereof, the Feoffee (*feofatus*), and *Littleton* saith, that the proper difference betweene a Feoffour and a Donour is, that the Feoffour giveth in fee-simple,

the Donour in fee-taile, lib. 1. cap. 6.

Feodarie, aliàs, *Feudarie*, aliàs, *feudatarie*, (*feudatarium*) is an officer authorized and made by the Master of the Court of wards and liveries, by Letters patents under the Scale of that office. His function is to be present with the Escheatour at the finding of any office, and to give evidence for the King as well concerning the value, as the tenure, and also to survey the land of the Ward, after the office found, and to rate it. He is also to assigne the Kings widowes their Dowers, and to receive all the rents of the wards lands, within his circuit, and to answer them to the Receiver of the Court of Wards and Liveries. This officer is mentioned anno 32. *H. 8.* cap. 46.

Ferdfare, significat *quietantiam emende in exercitum.* *Fleta*, libr. pri. cap. 47.

Ferdwit, significat *quietantiam murti in exercitum.* *Fleta*, libr. pri. cap. 47.

Ferm (*firma*) commeth of the French (*Ferme*. i. *colonia, villa, prædium*), and signifieth with us, house or land, or both, taken by Indenture of lease, or lease parol. It may likewise not unaptly be conjectured, that both the French and English word came from the Latine (*firmus*) for (*locare*

ad firmum) I find sometime to signifie with others, as much as (to set or let to farme) with us. The reason whereof may be in respect of the sure hold they have above tenants at will, *v. vocabul. utriusque juris. verbo afflicti.* The author of the new Termes of Law, deriveth this word from the Saxon (*feormian*) which signifieth, to feed or yield victuall. For in ancient time the reservations were as well in victualls as money, which I leave to the judgement of the Reader. How many wayes ferme is taken. See *Plowden, casu Wrothesley, fol. 195. a. b.*

Fendarie. See *Feodarie.*

Fieri facias is a writ judiciall, that lyeth at all times within the yeare and day, for him that hath recovered in an action of debt, or dammages, to the Sheriffe, to command him to levie the debt, or the dammages of his goods, against whom the recovery was had. This writ hath beginning from *Westm. 2. cap. 18. anno 13. Ed. 1.* See *Old nat. br. fol. 152.* See great diversitie thereof in the Table of the *Register Iudiciall. verbo. Fieri facias.*

Fifteenth (*Decimaquinta*) is a tribute, or imposition of mony laid upon any City, Borough, and other Towne through the Realme, not by the polle, or upon

this or that man, but in generall, upon the whole City or Towne; so called, because it amounteth to one fifteenth part of that, which the City or Towne hath bene valued at of old. This is now a dayes imposed by Parliament: and every Towne through the Realme, great or lesse, knoweth what a fifteenth for themselves doth amount unto, because it is perpetuall: whereas the Subsidie, which is raised of every particular mans lands or goods, must needs bee uncertaine, because the estate of every severall man is so ticklish and uncertaine. And in that regard am I driven to thinke that this fifteenth is a rate anciently laid upon every Towne, according to the land or circuit belonging unto it; whereof *M. Camden* hath many mentions in his *Britannia*. In stead of the rest, take a few, *page 168.* of *Wels* in *Somerfet shire* he writeth thus: *Quo tempore, ut testatur censualis Angliae liber, Episcopus ipsum oppidum tenuit, quod pro quinquaginta hidis geldavit:* And *pag. 171.* of *Barthe.* *Geldabat pro viginti hidis, quando Schira geldabat.* Thirdly, *pa. 181.* of old *Sarisbury* thus: *Pro quinquaginta hidis geldabat.* And these rates were taken out of Doomes day in the *Eschequer*; so that this seemed in old time, to bee a yearely tribute in certainty, whereas now, though the rate be

certaine,

certaine, yet it is not levied but by Parliament. See *Taske*, See *Quinsie me*.

Filazer (*Filazarius*) comineth of the French (*Filace*. i. *filum*, *filacium*) it is an officer in the common Plees, wherof there bee 14. in number: they make out all originall Proces as well reall as personall and mixt: and in actions meerely personall, where the defendants bee returned or sommoned, there goeth out the distress infinite untill appearance. If he be returned *Nihil*, then Proces of *Capias infinite*, if the Plaintiffe will, or after the third *Capias*, the Plaintiffe may goe to the Exigenter of the Shire, where his originall is grounded, and have an Exigent or Proclamation made: And also the *Filazer* maketh forth all Writs of viewe in causes, where the viewe is prayed: hee is also allowed to enter the imparlance, or the generall issue in common actions, where appearance is made with him, and also Iudgement by confession in any of them before issue bee ioyned, and to make out Writs of Execution thereupon. But although they entred the issue: yet the Prototarie must enter the Iudgement, if it be after verdict. They also make Writs of *Supersedias*, in case where the Defendant appeareth in their offices, after the Ca-

pias awarded.

Fildale. See *Sothale*.

File (*filacium*) is a threed or wyer, whereon Writs, or other Exhibits in Courts, are fastened for the more safe keeping of them.;

Finders, anno 18. Edw. 3. stat. 1. cap. unico. anno 14. Ric. 2. cap. 10. seeme to bee all one with those, which in these dayes wee call Searchers.

Fine (*finis*) commeth of the French (*fin*. i. *finis*) and hath divers applications in our common Law: sometimes being used for a formall or ceremonious conveyance of Lands or Tenements, or (as *West* saith, *titulo Fines*, sect. 25.) of any thing inheritable, being in esse tempore finis, to the end to cut off all controversies. (*West*, parte 2. symbol. sect. 1. defineth a Fine in this signification: covenants made before Iustices, and entred of Record. And out of *Glanvile* thus, lib. 8. cap. 1. *Finis est amicabile compositio & finalis concordia, ex consensu & licentia Domini Regis, vel eius Iusticiariorum*. And lib. 9. cap. 3 *Talis concordia finalis dicitur, eo quod finem imponit negotio, ad eo ut neutra pars litigantium ab eo de cetero poterit recedere*. And out of *Bracton*, lib. 5 tract. 5. cap. 28. num. 7. thus: *Finis ideo dicitur finalis concordia, quia imponit finem litibus, et est exceptio peremptoria*. The author of

the new Termes of Law, defineth it to be a finall agreement had betweene persons concerning any Land or Rent, or other thing, whereof any suite or Writ is betweene them hanging in any Court. See the new Booke of Entries, *verbo Fines*. This fine is of so high a nature, that *Bracton lib. 3. cap. 7. num. 3.* hath these words of it. *Item immediate pertinet ad Regem querela finis facta in curia Domini Regis, & non observata. Et est ratio, quia nemo potest finem interpretari nisi ipse Rex, in cuius curia fines fiunt.* See also, anno 27. *Ed. prim. stat. prim. cap. 1.* The Civilians would call this solemne contract, *transactioem iudicialem de re immobili*, because it hath all the properties of a transaction, if it be considered in his originall use. *v. Wesemb. parat. titulo de transact.* For it appeareth by the Writers of the Common Lawe above named, that it is nothing but a composition or concord acknowledged and recorded before a competent Iudge, touching some hereditament or thing immoveable, that earst was in controversie betweene those, that be parties to the same concord: and that for the better credit of the transaction, being by imputation made in the presence of the King, because it is levied in his

Court: and therefore doth it bind women covert being parties, and others whom ordinarily the Lawe disableth to transact, onely for this reason, that all presumption of deceite or evill meaning is excluded, where the King is privie to the act. But discourse of wit and reason, hath in time wrought other uses of this concord, which in the beginning was but one: as namely, to secure the title that any man hath in his possession against all men: to cut off Intailes, and with more certaintie to passe the Interest or the Title of any Land or Tenement, though not controverted, to whom wee thinke good, either for yeares or in Fee. In so much that the passing of a Fine, in most cases, now is it but *mera fictio juris*, aluding to the use for the which it was invented, and supposing a doubt or controversie, where in truth none is: and so not onely to worke a present prescription against the parties to the concord, or fine, and their Heires, but within five yeares against all others, not expressly excepted (if it be levied vpon good consideration and without Covine) as women covert, persons vnder 21. yeares, or prisoners, or such as bee out of the Realme at the time when it was acknowledged

ledged. Touching this matter, see the statutes, *anno 1. Rich. 3. cap. 7. anno 4. H. 7. cap. 24. anno 32. H. 8. cap. 36. & anno 31. Eliz. cap. 2.* This fine hath in it five essentiall parts: the originall writ taken out against the Conizour: the Kings License giving the parties liberty to accord, for the which hee hath a fine called the Kings Silver, being accounted a part of the Crownes revenue. Thirdly, the concord it selfe, which thus beginneth: *Et est concordia talis, &c.* Fourthly, the note of the fine, which is an abstract of the originall concord, and beginneth in this manner: *So. Inter R. querentem, & S. & E. uxorem ejus, de forciante, &c.* Fifthly, the foot of the fine, which beginneth thus: *Hac est finalis concordia facta in Curia domini Regis. apud Westm. à die Pasche in quindecim dies, anno &c.* So as the foot of the fine includeth all, containing the day, yeare, and place, and before what Iustice the concord was made. *Coke vo. 6. casu Teye. fo. 38. & 39.* This fine is either single or double: A single fine, is that by which nothing is granted or rendered backe againe by the Cognizeese to the Cognizours, or any of them. A double fine containeth a grant and render backe againe, either of some rent, common, or other thing, out of the land, or of the land it

selfe, to all, or some of the Cognizours, for some estate, limiting thereby many times Remainders to strangers, which be not named in the writ of covenant. *West ubi supra, Sect. 21.* Againe, a fine is of the effect, divided into a fine executed, and a fine executory. A fine executed is such a fine, as of his owne force giveth a present possession (at the least in law) unto the Cognizee, so that hee needeth no writ of (*Habere facias seisinam*) for the execution of the same, but may enter; of which sort is a fine (*sur cognizance de droit come ceo que il ad de son done*) that is upon acknowledgement, that the thing mentioned in the concord be *jus ipsius cognizari, ut illa que idem habet de dono Cognitoris.* *West. Sect. 51. K.* and the reason of this seemeth to be, because this fine, passeth by way of release of that thing, which the cognizee hath already (at the least by supposition) by virtue of a former gift of the Cognizour, *Cokes Reports. lib. 3. the case of fines, fo. 89. b.* which is, in very deed, the surest fine of all. *Fines executorie* be such, as of their owne force doe not execute the possession in the Cognizeese, as *fines sur cognizance de droit tantum, fines sur done*, grant, release, confirmation, or render. For if such fines be not levied, or such render made unto

them, that bee in possession at the time of the fines levied, the cognizees must needs sue writts of (*Habere facias seisinam*) according to their severall cases, for the obtaining of their possessions, except at the leuying of such executory fines, the parties, unto whom the estate is by them limited, bee in possession of the lands passed therby: for in this case such fines doe inure by way of extinguishment of right, not altering the estate or possession of the cognizee, but perchance bettering it, *West. ubi supra, sect. 20.*

Touching the forme of these Fines, it is to bee considered upon what writ or action the concord is to be made, and that is, most commonly, upon a writ of Covenant: and then first there must passe a payre of Indentures betweene the Cognizour and Cognizee, whereby the Cognizour covenanteth with the Cognizee, to passe a Fine unto him, of such or such things by a day set down. And these Indentures, as they are first in this proceeding, so are they sayd to leade the Fine; vpon this Covenant the writ of Covenant is brought by the Cognizee against the Cognizour, who thereupon yeeldeth to passe the Fine before the Iudge, and so the acknowledgement being recorded, the Cognizour and his heyres are presently concluded,

and all strangers not excepted, after five yeares once passed. If the writ whereupon the Fine is grounded, be not a writ of covenant, but of *Warrantia charta*, or a writ of right, or a writ of *mesne*, or a writ of Custome and Services (for of all these Fines may also be founded. (*West. ubi supra, sect. 23.*) then this forme is observed: the writ is served upon the party that is to acknowledge the Fine, and then he appearing doth accordingly: See *Dier. fol. 179. nu. 46.*

This word (*Fine*) sometime signifieth a summe of money, payd for an In-come to lands or tenements let by Lease: sometime an amends, pecuniarie punishment, or recompense upon an offence committed against the King and his Lawes, or a Lord of a mannor. In which case, a man is said, *facere finem de transgressione cum Rege, &c. Regist. Jud. fol. 25. a.* and of the diversitie of these Fines, with other matter worth the learning, see *Cromptons Iustice of peace, fol. 141. b. 143. 144.* and *Lamberds Eirenarbor lib. 4. cap. 16. pa. 555.* But in all these diversities of uses, it hath but one signification; and that is a finall conclusion or ende of differences betweene partyes. And in this last sense, wherein it is used for the ending and remission of an offence, *Bracton* hath

hath it *li. 2. ca. 15. nu. 8.* speaking of a common fine that the County payeth to the King, for false judgements, or other trespasses, which is to be assessed by the Iustices in Eyre before their departure, by the oath of Knights and other good men, upon such as ought to pay it: with whom agreeth the Statute, *anno 3. Ed. pri. ca. 18.* There is also a common fine in Leets. See *Kitchin. fo. 13. a. v. Common fine.* See *Fleta li. 1. ca. 48.*

Fines pro licentia concordandi, *anno 21. H. 8. ca. 1.* See *Fine.*

Fine force, seemeth to come of the french adjective (*fin*) and the substantive (*force. i. vis*) The adjective (*fin*) signifieth sometime as much as crafty, wily or sub-till; sometime as much, as artificiall, curious, singular, exact, or perfect, as (*Rien contrefait fin. i. nihil simulatum aut ad imitationem alterius expressum, potest esse exactum, vel ita absolutum, quin reprehensionem vel offensionem incurrat*, as is set downe in that worke, truly regal, intituled βασιλικον δαιμον. *pa. 115.* so that this (*fine force*) with us, seemeth to signifie an absolute necessity or constraint, not avoidable, and in this sense it is used, *Old nat. br. fol. 78.* and in the statute *anno 35. H. 8. ca. 12.* in *Perkins Dower. fol. 321.* and *Plowden, fol. 94. Coke, vol. 6. fol. 111. a.*

Fine annullando levato de tenemento quod fuit de antiquo domino. is a writ to Iustices, for the disannulling of a fine levied of lands holding in ancient Demesne, to the prejudice of the Lord, *Regist. orig. fol. 15. b.*

Fine capiendo pro terris, &c. is a writ lying for one, that upon conviction by a Jury, having his lands and goods taken into the Kings hand, and his body committed to prison, obtaineth favour for a summe of money, &c. to be remitted his imprisonment, and his lands and goods to be re-delivered unto him, *Regist. orig. fo. 142. a.*

Fine levando de tenementis tantis de Rege in capite, &c. is a writ directed to the Iustices of the common pleas, wherby to license them to admit of a fine for the sale land, holding in *capite*, *Reg. orig. fo. 167. a.*

Fine non capiendo pro pulchre placitando, is a writ to inhibit officers of Courts, to take fines for faire pleading, *Reg. orig. fo. 179.* See *Beau pleder.*

Fine pro redisseisina capienda, &c. is a writ, that lieth for the release of one laid in prison for a re-disseisin, upon a reasonable fine, *Reg. orig. fo. 222.*

Finarie. See *Blomarie.*

Finours of gold and silver, be those that purifie, and part those Metals from other courser, by fire

fire and water, *anno 4. H. 7. ca. 2.* They be also called Parters in the same place, sometime Departers.

Firebote, for the composition looke *Haybote*. It signifieth allowance or *Estovers* of woods, to maintaine competent fire for the use of the tenent.

First fruits (*primitia*) are the profits of every Spirituall living for one yeare, given in ancient time to the Pope throughout all Christendome: but by the statute *anno 26. H. 8. cap. 3.* translated to the Prince, for the ordering whereof, there was a Court erected, *an. 32. H. 8. ca. 45* but this Court was dissolved *anno pri. Mar. sess. 2. ca. 10.* and sithence that time, though those profits be reduced againe to the Crowne, by the statute *anno 1. Eliz. ca. 4.* yet was the Court never restored, but all matters therein wont to be handled, were transferred to the Exchequer. See *Annals.*

Fishgarthe, *anno 23. H. 8. ca. 18.*

Ficke. See *Furre*.

Fitzherberd, was a famous Lawyer in the dayes of King Henry the eight, and was chiefe Justice of the Common plees, hee wrote two worthy Bookes, one an Abridgement of the common lawes, another intituled *De Natura brevium*.

Fledwit, commeth of the Saxon word (*Fled*) that is a fugi-

tive, and wit, which some make but a termination, signifying nothing of it selfe: howbeit others say, it signifieth a reprehension, censure or correction: It signifieth in our auncient Lawe, a discharge or feedome from ameracements, when one having beene an Outlawed fugitive, cometh to the peace of our Lord the King, of his owne accord. *Rastal. Exposition of words*: or being licenced: *New termes of law.* See *Bloodwit*, and *Childwit*: See *Fleerwit*.

Fleete (*Fleta*) a famous prison in London, so called (as it seemeth) of the River, vpon the side whereof it standeth, *Camden Britannia*, pag. 317. Vnto this none are vsually committed, but for contempt to the King and his Lawes, or vpon absolute commandement of the King, or some of his Courts, or lastly upon debt, when men are vnable or vnwilling to satisfie their Creditours.

Flemesnit, or rather (*Flehenwit*) commeth of the Saxon word (*Flean*) which is a contract of (*Flegen*) that is, to fly away. It signifieth with our Lawyers, a libertie or Charter, whereby to challenge the Cattell or ameracements of your man a Fugitive: *Rastal. Exposition of words.* See *Bloodwit*. *Fleta* writeth this word two other waies, as *Flemenescfe-*

vie or *Flemesfreilthe*, and interpreteth it, *habere catalla fugitivorum*, li. 1. ca. 47.

Fleta, is a feigned name of a learned Lawyer, that writing a Booke of the common lawes of England, and other Antiquities in the *Fleete*, termed it thereof *Fleta*: Hee seemeth to have lived in *Ed.* the 2. time, and *Ed.* the 3. *idem*, li. 1. ca. 20. §. *qui ceperint*, li. 2. ca. 66. §. *item quod nullus*.

Fletwit, aliàs *Fredwit*. *Skene de verborum significatione. verb. Melletum* saith, that (*Flichtwit*) is a liberty to Courts, and to take up the amercements *pro melletis*, hee giveth the reason because (*Flicht*) is called *Fliting* in french (*Melle*) which sometime is conjoynd with hand-strokes: And in some bookes *Placitum de melletis*, is called the moote or plee of beating or striking.

Flight. See *Finer*.

Floresces, anno 1. R. 3. cap. 8. a kind of cloth so called.

Florsen, aliàs (*Flotzam*) is a word proper to the seas, signifying any goods that by Shipwacke be lost, and lye floting, or swimming upon the top of the water, which with *Ietson* and *Lagon* & *Shares* be given to the Lord *Admirall*, by his Letters patents. *Ietson* is a thing cast out of the Ship being in danger of wrecke, and beaten to the shore by the waters, or cast on the shore by

the Marriners. *Coke*, vol. 6. fol. 106. a. *Lagon*, aliàs *Lagam* vel *Ligan*, is that which lyeth in the bottome of the Sea, *Coke*, *ibid.* *Shares*, are goods due to more by proportion.

Foder (*fodrum*) signifieth in our English tongue, a course kind of meate for Horses and other Cattell. But among the Feudists it is used for a prerogative that the Prince hath, to bee provided of Corne and other meat for his Horses by his Subjects, towards his wars, or other expeditions. *Arnoldus Clapmarinus de arcavis imperii. lib. 1. ca. 11.* And reade *Hotoman de verbis feudalibus. littera. F.*

Folgheres, or rather *Folgers*, be followers, if we interpret the word according to the true signification: *Bracton* saith it signifieth, *eos qui alii deserviunt*, lib. 3. tract. 2. cap. 10.

Folkmoote, is a Saxon word, compounded of (*Folk*. i. *populus*) and (*Gemettan*. i. *convenire*.) It signifieth (as *M. Lamberd* saith in his explication of Saxon words *verbo Conventus*) two-kind of courts, one now called the Countie court, the other called the Sherifes Turne: This word is still in use among the Londoners, and signifieth *celebram ex omni civitate conventum*: *Stow*, in his Survey of London; but *M. Manwood*, in his first patt of Forest

lawes, *pa. III.* hath these words: *Folkemote* is the Court holden in London, wherein all the folk and people of the City did complaine on the Mayor and the Aldermen, for mis-government within the City.

Forbarre, is for ever to deprive. *anno 9. Rich. 2. ca. 2.*

Force (*forcia*) is a french word, signifying (*vim, nervositatem, fortitudinem, virtutem*) in our common law, it is most usually applyed to the evill part, and signifieth unlawfull violence. *West* thus defineth it: *Force* is an offence, by which violence is used to things or persons, *parte 2. symb. titulo Inditements Sect. 65.* where also hee devideth it thus: *Force* is either simple or compound. Simple is that which is so committed, that it hath no other crime adjoynd unto it; as if one by force doe onely enter into another mans possession, without doing any other unlawfull act there. Mixt force, is that violence, which is committed with such a fact, as of it selfe onely, is criminall; as if any by force enter into another mans possession, and kill a man, or ravish a woman there, &c. hee farther devideth it into true force, and force after a sort, and so proceedeth to divers other branches worth the reading, as forcible entry, forcible detaining, unlaw-

full assembly, *Rowtes, Riots, Rebellions, &c.*

Forcible detaining or withholding of possession, is a violent act of resistance by strong hand of men weaponed with haraes, or other action of feare, in the same place, or elsewhere, by which the lawfull entry of Iustices or others, is barred or hindred, *West parte 2. symb. titulo Inditements. Sect. 65.* *M.* of this see *Cromptons Iustice of peace. fo. 58. b. &c. usq; ad 63.*

Forcible entrie (*Ingressus manu fortis factus*) is a violent actuall entry into an house or land, &c. or taking a distresse of any person weaponed, whether he offer violence or feare of hurt to any there, or furiously drive any out of the possession thereof: *West par. 2. symb. titulo Inditements Sect. 65.* *L.* of this see *Cromptons Iustice of peace. fo. 58. b. 59. &c. usq; 63.* It is also used for a writ grounded upon the statute *anno 8. H. 6. ca. 9.* whereof reade *Fitzh. nat. br. at large. fo. 248.* See the new booke of Entries, *verbo Forcible Entris.* See *Lamb. definition in certaine cases. Eiren. li. 2. ca. 4. pa. 145.*

Forein (*forinsecus*) commeth of the French (*forain. i. externus, externus*) it is used adjectively in our common law, and joyned with divers substantives in senses not unworthy the exposition, as *Forein matter*, that is matter triable in another County, *pl. cor.*

fo. 154. or matter done in another countie, *Kitchin. fol. 126. Foreinplea (forinsecum placitum)* i. a refusall of the Iudge as incompetent, because the matter in hand was not within his precincts, *Kitchin. fol. 75. & anno 4. H. 8. ca. 2. & anno 22. ejusdem. ca. 2. & 14. Forein answer*, that is, such an answer, as is not triable in the countie where it is made, *anno 15. H. 6. ca. 5. Forein service (forinsecum servitium)* that is such service, whereby a meane Lord holdeth over of another, without the compasse of his owne fee. *Brooke, titulo Tenures fo. 251. nu. 12. & 28. & Kitchin, fol. 209.* or else that which a tenent performeth, either to his owne Lord, or to the Lord paramount out of the fee. For of these services, *Bracton* speaketh thus, *lib. 2. cap. 16. nu. 7. Item sunt quedam servitia, quae dicuntur forinseca, quamvis sunt in charta de feoffamento expressa & nominata: & quae ideo dici possunt forinseca, quia pertinent ad Dominum Regem, & non ad dominum capitalem, nisi cum in propria persona profectus fuerit in servitio: vel nisi cum pro servitio suo satisfecerit domino Regi quocumque modo, & sunt in certis temporibus, cum casus & necessitas evenierit, & varia habent nomina & diversa: Quandoque enim nominantur forinseca, large sumpto vocabulo, quoad servitium domini Regis,*

quandoque; scutagium, quandoque; servitium domini Regis, & ideo forinsecum dici potest, quia fit & capitur foris, sive extra servitium quod fit Domino capitali. v. Broke Tenures 28. 95. Forein service, seemeth to be knights service or Escuage uncertaine. *Perkins Reservations, 650. Forein attachement (Attachimentum forinsecum)* is an attachement of Foriners goods, found within a liberty or citie for the satisfaction of some citizen, to whom the said Foriner oweth money.

Forein Apposer (forinsecarum oppositor) is an officer in the Exchequer, to whom all Sheriffes and Baylifes doe repaire, by him to bee opposed of their greene waxe, and from thence draweth downe a charge upon the Sheriffe and Baylife to the Clarke of the pipe,

Forest (Foresta) is a french word, signifying a great or vast wood. *Lien forestier & sauvage: locus sylvestris & saluosus.* The writers upon the common law define it thus: *Foresta est locus ubi fera inhabitant vel includuntur. glos. in ca. cum dilecti. extra. de donatio, & Felinus in ca. Rodolphus. versu, quid autem Foresta. extra. de rescriptis,* speaketh to the same effect. Some other writers doe say, it is called foresta, quasi ferarum statio, vel intra mansio ferarum. But as it is taken with us, *M.*

Manw. in his second part of forest Lawes, *cap. 1. nu. 1.* thus defineth it : A Forest is a certaine territorie of woody grounds and fruitfull pastures, priviledged for wild beasts, and fowles of forrest, chase, and warren, to rest and abide in, in the safe protection of the King, for this princely delight and pleasure : which territory of ground so priviledged, is meered & bounded with vnremoveable markes, meeres, and Boundaries, either knowne by matter of record, or else prescription, and also replenished with wild beasts of Venery, or chase, and with great coverts of vert, for the succour of the said wild beasts, to have their abroad in : for the preservation and continuance of which said place, together with the vert and venison, there are certain particular lawes, priviledges and officers, belonging to the same, meete for that purpose, that are onely proper unto a Forest, and not to any other place. The same definition he hath *parte 1. pag. 139.* which though it have many superfluities, yet it well expresth the nature of the thing, especially the explication adjoynded, which there is set downe by the said author in both places in his first part *pag. 16.* where hee fetcheth a Forest from such overgrowne antiquitie, alledging for it the second Book of Kings, *cap. 2. ver. 24 & ca. 19. ver.*

23. and the 104. Psalme, *vers. 20.* the 131. *ver. 6.* hee taketh licence to sport himselfe ; for though our English Translation have the word Forest, to expresse the vastnesse of the Desert, yet if we looke to the originall Idiomme, we shall find no more reason to call those places Forests, then either Chafes or Parkes.

The maner of making Forests, as the same Author well setteth downe, *parte 1. pag. 142.* is this. The King sendeth out his Commission vnder the broad Seale of England, directed to certaine discrete persons, for the view, perambulation, meering & bounding of the place, that he mindeth to afforest : which returned into the Chancery, Proclamation is made throughout all the Shire, where the ground lyeth, that none shall hunt or chase any maner of wilde beasts within that precinct, without the Kings speciall licence, after which he appointeth ordinances, lawes, and officers, fit for the preservation of the vert and venison : and so becommeth this a Forest by matter of record. The properties of a Forest are these in speciall ; first, a Forest, as it is truly and strictly taken, cannot be in the hands of any but the King : the reason is given by *M. Manwood*, because none hath power to grant commission to a Justice in *Eire* for the Forest, but the King, *par. 1. pag.*

pag. 87. The second propertie, bee the Courts, as the Iustice seat every three yeare, the Swainemoot thrice every yeare: *Idem eod. pag. 90. & parte 2. ca. 1. nu. 4. & 5.* and the attachement once every forty dayes. *Idem eod. pag. 92.* The third property may be the Officers belonging unto it, for the preservation of the Vert and Venison, as first the Iustices of the Forest, the Warden or Keeper, the Verderers, the Foresters, Agistours, Regarders, Bailiffs, Bedels and such like, which you may see in their places. See *Manwood part. 2. ca. 1. nu. 4. & 5.* But the chiefe property of a Forest, both by M. *Manwood, parte 1. pa. 144.* and M. *Crompton pag. 146.* is the Swainemote, which (as they both agree) is no lesse incident unto it, then the court of *Pyepowders* to a faire. Other courts and offices are not so requisite, in those Forests that are in the hands of subjects, because they be not truly Forests: but if this faile, then is there nothing of a Forest remaining, but it is turned into the nature of a Chace. See *Chace.* I reade of thus many Forests in England. The Forest of *Windsour* in *Berkshire: Cambr. Britan. pag. 213.* of *Pickering. Crompton 190.* of *Shirwood, idem fol. 202.* of *Englewood* in *Cumberland, Anno 4. H. 7. cap. 6. & Crompton fol. 42.* of *Lancaster, idem fol. 196.* of *Wolmore, Stowes*

Annals, pag. 462. of *Gillingham, Idem pag. 113.* of *Knaresborrow, anno 21. H. 8. cap. 17.* of *Waltham, Camd. pag. 328.* of *Breden, idem, pag. 176.* of *Whiteharte, idem pag. 150.* of *Wiersdale, idem pag. 589.* and *Lownsedall, ibidem.* of *Deane, idem pag. 266. & anno 8. H. 6. cap. 27. & anno 19. H. 7. cap. 8.* of *Saint Leonards* in *Southsex. Manwood parte. 1. pa. 144.* of *VVaybridge & Sapler. Idem eodem. pag. 63.* of *Whitvey, pa. 81.* of *Fekenham, Camd. pa. 441* of *Rockingham, idem pa. 390.* *Forest de la mer. Idem pag. 467.* of *Huckstow, idem pag. 4, 6.* of *Hay, Manwood parte. 1. pa. 144.* of *Cantfelly, eadem pag.* of *Ashdowne* in the county of *Sussex, anno 37. H. 8. cap. 16.* *Forests of Whittilwood & Swasie* in the county of *Northampton, anno 33. H. 8. cap. 38.* of *Fronselwood* in *com. Somerset. Cok. li. 2. Cromw. case. fo. 71. b.* I heare also of the Forest of *Exmore* in *Devonshire.* There may be more, which hee that listeth, may looke for.

Forester (forestarius) is a sworn Officer of the Forest, appoynted by the Kings Letters Patents, to walke the Forest both early and late, watching both the Vert and Venison, attaching and presenting all Trespassers against them, within their owne Bayliwicke or walke: whose Oath you may see in *Crompton,*

fol. 201. And though these Letters patents be ordinarily graunted, but *quam diu bene se gesserint*, yet some have this grant to them and their heires, and thereby are called *Foresters*, or *Fosters in fee*. *Idem*, fol. 157. & 159. & *Manwood part. prima*, pag. 220. whom in Latine *Crompton* calleth *Foristarium feudi*, fol. 175.

Foreindger, (*forisjudicatio*) signifieth in the Common lawe, a Iudgement, whereby a man is deprived, or put by the thing in question. It seemeth to be compounded of (*foris*. i. *prater*) & (*inger*. i. *indicare*.) *Bracton lib. 4. tract. 3. cap. 5.* hath these words: *Et non permittas quod A. capitalis dominus feudi illius, habeat custodiam heredis, &c. quia in Curia nostra forisjudicatur de custodia, &c.* So doth *Kitchin* use it, fol. 209. and *old. nat. bre.* fol. 44. & 81. and the statute, anno 5. *Ed. 3. cap. 9.* and anno 21. *R. 2. ca. 12.* *Forindicatus* with authors of other nations signifieth as much as (*banished*) or as (*deportatus*) in the ancient *Romane* law, as appeareth by *Vincentius de Franchis*, *desis.* 102. *Matham de Afflictis*. li. 3. *feudorum*. Rub. 31 pag. 625.

Foregoers be pourveyours, going before the King or Queene, being in progresse, to provide for them, anno 36. *Ed. 3. cap. 5.*

Forfeiture, (*forisfactura*) com-

meth of the French word (*forfait*. i. *scelus*) but signifieth in our language, rather the effect of transgressing a penall law, then the transgression it selfe: as forfeiture of *Escheates*, anno 25. *Ed. 3. cap. 2. Statut. de Proditionibus*. Goods confiscate, and goods forfeited differ. *Stawnf. pl. cor.* fol. 186. where those seeme to be forfeited, that have a known owner, having committed any thing whereby hee hath lost his goods; and those confiscate, that are disavowed by an offendour, as not his owne, nor claymed by any other. I thinke rather, that forfeiture is more generall, and confiscation particular, to such as forfeit onely to the Princes *Exchequer*. Reade the whole chapter, *lib. 3. cap. 24.* Full forfeiture (*plena forisfactura*) otherwise called (*plena vita*) is forfeiture of life and member, and all else that a man hath. *Manwood parte prim. pag. 341.* The Canon Lawyers use also this word. *For forisfacta sunt pecuniaria poena delinquentium*, *Glos. in cap. Presbyteri, extra. de poenis.*

Forfeiture of mariage, (*forisfactura maritagii*) is a writ lying against him, who holding by knights service, and being under age and unmarried, refuseth her, whom the Lord offereth him, without his disparagement, and marieth another. *Fitzb. nat. br. fol.*

141. *H. I. K. L. Register origin. fol. 163. b.*

Forfeng, quietantiam prioris prise designat: in hoc enim delinquant Burgenses Londonenses, cum prisas suas ante prisas regis faciunt. Fleta lib. 1. cap. 47.

Forgerie. See here next following, *Forger of false deeds.*

Forger of false deeds, cometh of the French (*forger. i. accudere, fabricare, conflare*) to beate on an anvile, to fashion, to bring into shape; and signifieth in our common law, either him that fraudulently maketh and publisheth false writings, to the prejudice of any mans right, or else the writ that lyeth against him that committeth this offence, *Fitzh. nat. br. fol. 96. B. C.* calleth it a writ of deceite. See *Termes of law, verbo Forger.* and *West's Simbol, parte 2. Indictments. Sectio 66.* See the new booke of Entries. *verbo Forger. de faits.* This is a branch of that which the Civilians call *Crimen falsi: Nam falsarius est, qui decipiendi causa scripta publica falsificat. Speculator. de crimine falsi. Falsi crimen propriè dicitur, quod utilitatis privata causa factum est. Connanus li. 5. ca. 7. nu. 4. Ad esse falsitatis tria requiruntur: mutatio veritatis dolus, & quod alteri sit nocivum. Quorum si alterum desit, falsitas non est punibilis. Hostiensis, et Azo in suis summis.*

Forister. See *Forester.*

Formdon (*Breve formatum donationis*) is a writ that lyeth for him, that hath right to any lands or tenements by vertue of any entaile, growing from the statute of *Westm. 2. cap. 1.* It lyeth in three sorts, and accordingly is called *forma donationis*, or *formdon* in the descender: *formdon* in the reverter, or *formdon* in the remainder. *Formdon* in the descender lyeth for the recovery of lands, &c. given to the one and the heires of his body, or to a man and his wife, and the heires of their two bodies, or to a man and his wife being Cosin to the Donour, in francke marriage, and afterward alienated by the Donee. For after his decease his heire shall have this writ against the tenent or alienee. *Fitz. nat. br. fol. 211.* He maketh three sorts of this *formdon* in the descender: The first is, in the manner now expressed: The second is, for the heire of a Coparcener, that alienateth and dieth, *fo. 214.* The third is called by him (*In simul tenuit*) *fo. 216.* which lyeth for a Coparcener or heire in Gavelkind, before partition against him, to whom the other Coparcener or heire hath alienated and is dead. *Formdon* in the Reverter, lyeth for the Donour or his heires, where land entailed to certaine and their issue, with condi-

condition for want of such issue to revert to the Donour and his heires, against him to whom the Donee alienaterh, after the issue extinct, to which it was entailed, *Fitzh. nat. br. fol. 219*. Formdon in the remainder lieth where a man giveth lands in taile, the remainder to another in taile, and afterward the former tenent in taile dyeth without issue of his body, and a stranger abateth, then hee in the remainder shall have this writ. *Fitzh. nat. br. fol. 217*. See the Register original. *fol. 238, 242, 243*. Of this, see the new Booke of Entries, *verb. Formdon*.

Forsechoke, seemeth to signifie originally as much as *forsaken* in our Moderne language, or (*derelictum*) with the Romanes. It is especially used in one of our Statutes, for land or tenements seised by the Lord, for want of services due from the tenent: and so quietly held and possessed beyond the yeare and day. As if wee should say, that the tenent which seeing his land or tenements taken into the Lords hand, and possessed so long, taketh not the course appointed by Law to recover them, doth in due presumption of Law, disavow, or forsake whatsoever right hee hath unto them. See the statute *anno 10. Edw. 1. cap. unice.*

Forstall, is to be quit of amer-ciements and cattels arrested within your land, and the amer-ciements thereof comming. New termes of law.

Forstalling (*forstallatio*) is partly French, for (*Estaller*) is in that tongue, as much as (*merces exponere, expedire, explicare*) or to shew wares in a Market or Faire. It signifieth in our common law, the buying or bargaining for any victuals or wares comming to be sold toward any Faire or Market, or from beyond the Seas toward any City, Port, Haven, Creeke, or road of this Realme, and before the same be there, *anno 51. H. 3. stat. 6. West. parte 2. Symbol. titulo Indictments. sect. 64*. *Forstaller*, in *Cromptons Jurisdiction*, *fol. 153*. is used for stopping of a Decree broken out of the Forest, from returning home againe, or laying betweene him and the Forest, in the way that he is to returne: See *Regratours* and *Engrossers*. See *Cromptons Iustice of peace*, *fol. 69. a.* The author of the new termes of law defineth it thus. *Forstalling* (*Forstallamentum*) is the buying of Corne, Cattell, or other Merchandise by the way, as it commeth toward the Faire or Market to be sold, to the intent to sell the same againe at a more high and decree price. *Fleta* saith thus of it, *significat obstructionem viae vel impedimentum*

mentum transitus & fuga averiorum, lib. 1. cap. 47.

Fortescue, was a learned Lawyer, and Lord Chancellor in *Henry* the 6 daies; who writ a booke in the commendation of our common lawes.

Fortlet (*forte letum*) commeth neere the French (*fortelet. i. valenticulus, forticulus*) and signifieth in our common law, a place of some strength, *Old nat. br. fol. 45.* This in other Countries is written (*fortaliuum*) and signifieth (*castrum.*) *Scraderus select. & practabil. quest. sect. 12. num. 7. & 8.*

Fother, is a weight of twenty hundred, which is a waine or cart load. *Speight* in his *Annot.* upon *Chawcer.*

Fourche (*Afforciare*) seemeth to come of the French (*fourchir. i. iimbare lingua*) and signifieth in our common law, a putting off, prolonging, or delay of an action. And it appeareth no unpleasant Metaphor: For as by stammering, wee draw out our speech, not delivering that wee have to say in ordinary time, so by fourching wee prolong a suit that might be ended in a shorter space. To fourch by effoine, *Westm. 1. cap. 24. anno 3. Edw. prim.* where you have words to this effect: *Coparceners, Joint-tenants*, and Tenents in common, may not fourch by effoine, to ef-

foine severally, but have onely one effoine, as one sole tenant may have. And *anno 6. Ed. 1. ca. 10.* You have it used in like sort.

Footgeld, is a word compounded of these two German words (*fous. i. pes*) and (*gyldan. i. solvere*) and it signifieth an amercement for not cutting out the balles of great dogs feet in the Forest. See *Expeditate.* And to be quit of *footgeld* is a priviledge to keepe dogs within the Forest, unlawed, without punishment or controlment, *Cromptons Iurisd. fol. 197. Manwood, parte pri. of his Forest lawes, pag. 86.*

Fowles of warren. See *Warren.*

Founder, is hee that melteth mettall, and maketh any thing of it, by casting it into a mould, &c. *anno 17. Rich. 2. cap. 1.* derived of the verbe (*fundere*) to powre.

Franchise, (*libertas, franchesia*) commeth of the French (*franchise*) so signifying: it is taken with us for a priviledge, or an exemption from ordinary jurisdiction, and sometime an immunity from tribute. It is either personall or reall, *Crompt. Iurisd. fol. 141.* that is belonging to a person immediately, or else by meanes of this or that place, or Court of immunitie, whereof hee is either chiefe, or a member.

In what particulars things franchises commonly consist, see *Britton*, cap. 19. *Franchise royall* anno 15. R. 2. ca. 4. & anno 2. H. 5. cap. 7. in fine, seemeth to be that, where the Kings writs run not: as *Chester* and *Durham*, they are called Seignories royall, anno 28. H. 6. cap. 4. The author of the new *Termes of law* saith, that *franches royall* is, where the King granteth to one and his heires, that they shall be quit of tolle or such like: See *franchise* in the new booke of Entries. See *Bracton*, lib. 2. cap. 5. See *Sac*.

Frank almoine (*libera Elcemozyna*) in french (*frank Aufsmone*) signifieth in our common law, a tenure or title of lands; *Britton* cap. 66. num. 5. saith thus of it: *Franke almoine* is lands or tenements bestowed upon God, that is, given to such people, as bestow themselves in the service of God, for pure and perpetuall almes: whence the Feoffours or givers cannot demand any terrestriall service, so long as the lands, &c. remaine in the hands of the Feoffees. With this agreeth the grand Customary of *Normandie*, cap. 32. Of this you may reade *Bracton* at large, lib. 2. cap. 5. & 10. See *Fitzh. nat. br. fol. 211*. See the new booke of Entries, verbo. *Franke almoine*. But *Britton* maketh another kind of this land, &c. which is given in

almes, but not free almes: because the tenents in this are tyed in certaine services to the Feoffour, *Britton ubi supra*.

Frank bank (*francus bancus*) in true french (*franc bank*) signifieth, word for word, a free bench or seat: and among our Law writers, it seemeth to be used for Copyhold lands, that the wife being espoused a virgin, hath after the decease of her husband for her dower, *Kitchin*, fol. 102. *Bracton*, lib. 4. tract. 6. cap. 13. nu. 2. hath these words: *Consuetudo est in partibus illis, quod uxores maritorum defunctorum habeant francum bancum suum de terris sockmannorum, & tenent nomine dotis*, *Fuzh*. calleth it a custome, whereby in certaine Cities the wife shall have her husbands whole lands, &c. for her dower, *Nat. br. fol. 150. P.* See *Plowden casu Newis. fol. 411*.

Frank chase (*Libera chasea*) is a liberty of free chase, whereby all men having ground within that compasse, are prohibited to cut downe wood, or discover, &c. without the view of the Forester, though it be his owne Demesne, *Cromptons Iurisdictiones*, fol. 187.

Frank fee (*feudum francum, seu liberum*) is by *Broke tit. Demesne. num. 32*. thus expressed: That which is in the hand of the King or Lord of any Maner, being

being auncient demesne of the Crowne (*viz.* the Deineafnes) is called *franke fee*, and that which is in the hands of the tenents, is auncient demesne onely: see the *Register origin. fol. 12. a.* Whereby it seemeth, that that is franke fee, which a man holdeth at the Common Lawe to himselfe and his heires, and not by such service as is required in auncient demesne, according to the custome of the manner. And againe, I find in the same booke, *fol. 14. b.* a note to this effect, that the lands which were in the hands of King *Edward the Saint*, at the making of the booke called *Doomesday*, is ancient demesne: and that all the rest in the Realme is called frank fee: with the which note *Fitzherb. agreeth, na. br. fol. 161. E.* So that all the land in the Realme, by this reason, is either ancient demesne, or frank fee. The new expounder of the law termes defineth frank fee, to bee a tenure in fee simple, of lands pleadable at the common law, and not in ancient demesne: See *Fachineus, lib. 7. cap. 39.* who defineth *feudum francum esse, pro quo nullum servitium prestaturo Domino*: with whom agreeth *Zafius de feudis parte 12.* saying, that therefore it is *feudum improprium, quia ab omni servitio liberum.*

Frank ferme (*Firma libera*) is

land or tenement, wherein the nature of fee is changed by feofment, out of knights service, for certaine yearely services, and whence neither homage, wardship, mariage, nor reliefe may bee demanded, nor any other service not contained in the feofment. *Britton ca. 66. num 3.* see *Fee ferme.*

Frank law (libera lex) See *Cromptons Iustice of peace. fo. 156. b.* where you shall find what it is, by the contrary. For hee that for an offence, as conspiracie, &c. leeseeth his franke law, is said to fall into these mischiefs: first, that hee may never bee impaneled upon any jury, or assise, or otherwise used in testifying any truth. Next, if he have any thing to doe in the Kings Court, hee must not approach thither in person, but must appoint his Attorney. Thirdly, his lands, goods, and chatels must bee seised into the Kings hands: and his lands must bee estreaped, his trees rooted up, and his body committed to prison. For this, the said author citeth the booke of Assises, *fol. 59. Conspiracy. F. 11. 24. Ed. 3. fol. 34.* See *Conspiracy.*

Frankmariage (liberum maritagium) is a tenure in taile special, growing from these words in the gift comprised: *Sciant &c. me M. H. de W. dedisse et cōcessisse, et preestiti charta mea confirmasse I. A. filio*

meo & Margeria uxori ejus, filia
vera T. N. in liberum maritagium
unum messuagium &c. West. parte
1. Symbol. li. 2. sect. 303. The effect
of which words is, that they shall
have the land to them, and the
heires of their bodies, and shall
doe no fealty to the donour, un-
till the fourth degree. See new
Termes of law. Glanville li. 7. ca.
18. & Bratton li. 2. ca. 7. num. 4.
where hee divideth *maritagium*,
in liberum & *servitio obligatum*,
See *Mariage*. Fleta giveth this
reason why the heires doe no
service untill the fourth discent,
*ne donatores vel eorum heredes per
homagium receptionem, a reversione
repellantur*. And why in the fourth
discent and downeward, they
shall doe service to the donour,
*quia in quarto gradu vehementer
presumitur, quod terra non est pro
defectu heredum donatariorum re-
versura, libro tertio. ca. 11. in
princ.*

Frankpledge (*Franciplegium*) is
compounded of (*Frane. i. liber*)
and (*pleige. i. fideiussor*) and signi-
fieth in our common law, a
pledge or surety for free men.
For the ancient custome of Eng-
land for the preservation of the
publique peace, was that every
free borne man, at fourteene
yeares of age, after Bratton (reli-
gious persons, Clerkes, Knights,
and their eldest sonnes excepted)
should find surety for his truth

toward the King and his sub-
jects, or else bee kept in prison,
whereupon a certaine number
of neighbours became customa-
bly bound one for another, to
see each man of their pledge
forth comming at all times, or to
answere the transgression com-
mitted by any broken away. So
that whosoever offended, it was
forthwith inquired in what
pledge hee was, and then they of
that pledge, either brought him
forth within 31. dayes to his an-
swere, or satisfied for his offence.
This was called *Frank pledge*,
causa qua supra, and the circuit
thereof was called *Decenna*, be-
cause it commonly consisted of
10. households: And every par-
ticular person thus mutually
bound for himselfe and his
neighbours, was called *Decenni-
er*, because he was of one *Decen-
na* or another: This custome was
so kept, that the Sheriffes, at
every county court, did from
time to time take the oathes of
young ones, as they grew to the
age of 14. yeares, and see, that
hee were combined in one dozen
or another: whereupon this
braunch of the Sheriffs autho-
rity was called *visus Franciplegii*,
view of frankpledge. See the sta-
tute for view of Frankpledge,
made anno 18. Ed. 2. See *Decen-
nier*, *Leete veim of Frankpledge*,
and *Freoborthe*. That this disci-
pline

pline is borrowed by us of the *Romane Emperours*, or rather *Lombards*, appeareth most manifestly in the second booke of *Feuds. ca. 53.* upon which if you reade *Hotoman*, with those Authors that hee there recordeth, you will thinke your labour well bestowed. Reade more of this. *viz.* what articles were wont to bee inquired of in this court, in *Hornes mirrour of Iustices, lib. 1. ca. de la venen des francs pleges*, and what these articles were in ancient times, see in *Fleta, lib. 2. ca. 52.*

Fredwit. See *Fletwit.*

Free chapell (libera Capella) by some opinion, is a Chapell founded within a Parish for the service of God, by the devotion and liberalitie of some good man, over and above the mother Church, unto the which it was free for the Parishioners, to come or not to come, and endowed with maintenance by the founder, and thereupon called free: I have heard others say, and more probably, that those onely be free chapels, that are of the Kings foundation, and by him exempted from the Iurisdiction of the Ordinarie: but the King may license a subject to found such a chapell, and by his charter exempt it from the Ordinaries visitation also. That it is called free in respect it is exempted from

the Iurisdiction of the Diocesan, appeareth by the Register originall, *fol. 40. & 41.* These chapels were all given to the King: with chaunteries, *anno 1. Ed. 6. ca. 14. Free chapell of Saint Martin le grand. anno 3. Eduard. 4. capite quarto, & anno 4. Eduard. quartus ca. 7.*

Free hould (liberum tenementum) is that land or tenement, which a man holdeth in fee, fee tayle, or at the least, for terme of life, *Bract. lib. 2. ca. 9.* The new expounder of the law terms saith, that free hold is of two sorts. Freehold indeed, and freehold in law: Freehold in deed, is the reall possession of land or tenements in fee, fee tayle, or for life. Freehold in law, is the right that a man hath to such land or tenements before his entry or seisure. I have heard it likewise extended to those offices, which a man holdeth, either in fee or for terme of life. *Britton* defineth it to this effect. *Frank tenement* is a possession of the soile, or services issuing out of the soile, which a free man holdeth in fee to him and his heires, or at the least, for tearme of his life, though the soile bee charged with free services or others, *ca. 32. Freehold* is sometime taken in opposition to villenage, *Bract. lib. 4. ca. 37. & 38. M. Lamberd* (in his ex-

plication of Saxon words, *verbo Terra ex scripto*) saith, that land in the Saxons time was called either *Bockland*, that is holden by booke or writing: or *Folc-land*, that is holden without writing: The former, hee reporteth, was held with farre better conditions, and by the better sort of tenents, as noble men and gentlemen, being such as wee now call free hold: the latter was commonly in the possession of clownes, being that which wee now call at the will of the Lord: I finde in the Register judiciall, fol. 68. a. and in divers other places, that hee which holdeth land upon an execution of a Statute Merchant, untill hee bee satisfied the debt, *tenet ut liberum tenementum sibi & assignatis suis*, and fol. 73. b. I reade the same of a tenent *per elegit*; where I thinke the meaning is not, that such tenents bee freeholders, but as freeholders for their time, that is untill they have gathered profits to the value of their debt. Freeholders in the ancient lawes of Scotland, were called *Milites*. *Skene de verb. signif. verb. Milites*: The D. and *Student* saith, that the possession of land, after the law of England, is called *franck tenement*, or *free hold*. fol. 97. a.

Frenchman (*Francigena*) was wont to bee used for every out-

landish man. *Bracton li. 3. tract. 2. cap. 15.* See *Englecerie*.

Frendwite, vel Infeng, significat *quietantiam prioris prisae ratione convivii*, *Fleta. li. 1. ca. 47.*

Frendles man, was wont to be the Saxon word for him, whom wee call an outlaw. And the reason thereof I take to be: because hee was upon his exclusion from the Kings peace and protection, denied all helpe of friends, after certaine dayes. *Nam forisfecit amicos. Bract. li. 3. tract. 2. ca. 12. nu. 1.* whose words are these. *Talem vocant Angli (utlagh) & alio nomine antiquitus solet nominari sc: Frendles man: et sic videtur quod foris fecit amicos: & unde si quis talem post utlagariam & expulsiorem scienter paverit, receptaverit, vel scienter communicaverit aliquo modo, vel receptaverit, vel occultaverit, eadem penâ puniri debet, quâ puniretur utlagatus: ita quod careat omnibus bonis suis et vita, nisi Rex ei parcat de sua gratia.*

Fresh disseisin (*Frisca disseisina*) commeth of the french (*Fraiz. i. recens*) and *disseisir. i. possessione eicere*) It seemeth to signifie in our common law, that disseisin that a man may seeke to defeat of himselfe, and by his owne power, without the helpe of the King or his Iudges, *Britton. ca. 5.* and that is such disseisin, as is not above 15. dayes old. *Bract. lib. 4. cap. 5.* whom you may reade at

large of this matter, concluding that it is arbitrarie, and so doth *Britton, ca. 65.* but *ca. 43.* hee seemeth to say, that in one case it is a yeare. See him also *ca. 44.*

Fresh fine, is that which was levied within a yeare past, *West. 2. ca. 45. an. 13. Ed. 1.*

Fresh force (frisca fortia) is a force done within forty daies, as it seemeth by *Fitzh. nat. br. fol. 7. C.* For if a man be disseised of any lands or tenements, within any City or Borough, or deforced from them after the death of his Ancestor, to whom hee is heire: or after the death of his tenant for life or in taile: he may within forty daies after his title accrued, have a Bill out of the Chancerie to the Maior, &c. See the rest.

Fresh suit (recens insecutio) is such a present and earnest following of an offendour, as never ceaseth from the time of the offence committed or espied, untill hee be apprehended. And the effect of this, in the pursuit of a Felon, is, that the partie pursuing shall have his goods restored him againe: whereas otherwise they are the Kings. Of this see *Stawnsf. pl. cor. li. 3. ca. 10. & 12.* where you shall find handled at large, what suit is to be accounted fresh, and what not. And the same Author in his first booke, *cap. 27.* saith, that fresh suit may continue for

seven yeares. See *Cokes Reports, lib. 3. Rigemaies case.* *Fresh suit*, seemeth to be either within the view or without: for *M. Manwood* saith, that upon fresh suit within the view, Trespassers in the Forest may be attached by the officers pursuing them, though without the limits and bounds of the Forest, *parte 2. cap. 19. num. 4. fol. 121.*

Froborgh: aliàs Fridburgh: aliàs Frithborg (Frideburgum) cometh of two Saxon words (*Freo. i. liber, ingenuus*) and (*borgh. i. fidejussor*) or of (*Frid. i. pax*) & (*Borgha. i. sponsor*) This is otherwise called after the French (*Franck pledge*) the one being in use in the Saxons time, the other sithence the Conquest: wherefore for the understanding of this, reade *Franck pledge*. That it is all one thing, it appeareth by *M. Lamberd* in his explication of Saxon words, *verbo Centuria*: And againe, in the lawes of King *Edward*, set out by him *fol. 132.* in these words: *Præterea est quædam summa & maxima securitas, per quam omnes statu firmissimo sustinentur: viz. ut unusquisque stabiliat se sub fidejussionis securitate, quam Angli vocant (Freo-borghes) soli tamen Eboracenses, dicunt eandem (Tienmannatale) quod sonat latine decem hominum numerum. Hæc securitas hoc modo fiebat, quod de omnibus vil-*
lis

lis totius regni sub decennali fidejussione debebant esse universi: ita quod si unus ex decem forisfecerit, novem ad rectum eum haberent: quod si ausugeret, daretur lege terminus ei 31. dierum: ut quassus interim & inventus, ad justitiam Regis adduceretur, & de suo illico restauraret damnum quod fecerat. Et si ad hoc forisfaceret, de corpore suo, justitia fieret. Sed si infra pradiatum terminum inveniri non posset, &c. as in the booke: Bracton maketh mention of (Fridburgum) lib. 3. tract. 2. cap. 10. in these words: Archiepiscopi, Episcopi, Comites, & Barones & omne qui habent Soc, & Sak, Tol, & Team, & hujusmodi libertates, milites suos & proprios servientes, armigeros sc. dapiferos, & pincernas, camerarios, coquos, pistorum, sub suo Fridburgo habere debent. Item & isti suos Armigeros, & alios sibi servientes. Quod si cui forisfecerint, ipsi domini sui habeant eos ad rectum, et si non habuerint, solvant pro eis forisfacturam. Et sic observandum erit de omnibus aliis, qui sunt de alicujus manupastu. Out of these words, I learne the reason, why great men were not combined in any ordinary Dozeine, and that is, because they were a sufficient assurance for themselves, and for their meniall servants: no lesse then the ten were one for another in ordinary Dozeins. See Frankpledge: See Skene de verborum significati-

one. verb. Freiborgh. Flea wtricteth this word (frithborgh) and useth it for the principall man, or at the least, for a man of every Dozein. Frithborgh (saith hee) est laudabilis homo testimonii liber vel servus, per quem omnes juxta ipsam commorantes firmiori pace sustententur sub stabilitate fidejussionis ejus vel alterius per denarium numerum, unde quilibet quasi plegius alterius: ita quod si unus feloniam fecerit, novem tenentur ipsum ad standum recto presentare. li. 1. c. 47. §. Frithborgh. See Roger Hoveden, parte poster. suorum annal. in Henrico secundo. fol. 345. a. b.

Frier (frater) cometh of the French (frere) there be foure orders reckoned of them, anno 4. H. 4. cap. 17. viz. Minours, Augustines, Preachers, and Carmelites, the foure principall orders, of which the rest descend. See in Zechius de repub. ecc. pag. 380. Looke Linwood, titulo de relig. domibus. cap. 1. verbo. Sancti Augustin.

Frier observant (frater observans) is an order of Franciscans: for the better understanding of whom, it is to be noted, that of those 4. orders mentioned in the word (Frier) the Franciscans, are minores tam Observantes quam Conventuales & Capuchini. Zechius de Repub. Eccl. tract. de regular. cap. 2. These Friers observants, you find spoken of an. 25.

H. 8. cap. 12. who bee called ob-
servants, because they are not
combined together in any Cloy-
ster, Covent, or Corporation as
the conventuals are: but onely tye
themselues to observe the Rites
of their Order, and more strictly
then the Conventuals doe: and
upon a singularity of zeale, sepa-
rate themselues from them, li-
ving in certaine places, and com-
panies of their owne chusing. And
of these you may reade *Hospinian.*
de orig. & progress. Monachatus.
fol. 878. cap. 38.

Friperer, is taken from the
French (*fripier*) *interpolator*, one
that scoureth up and cleanseth old
apparell to sell againe. This word
is used for a bastardly kind of bro-
ker. *anno 1. Iacob. cap. 21.*

Frithborgh, See *Freeborgh*.

Frithsoken, signifieth surety of
defence, as *Saxon* saith in the de-
scription of *England; cap. 12.* It
seemeth to come of these two
Saxon words, *frith*, or *frid*, or
(*fred*) i. *pax*, and (*soken*. i. *qua-*
rere) *Fleta* teacheth it *frithsoken*,
vel forsoken, yeelding this reason,
Quod significat libertatem haben-
di franci plegii.

Fuer (*fuga*) commeth of the
French (*fuir*, i. *fugere*) though
it be a verbe, yet it is used substan-
tiuely in our Common Lawe, and
is twofold: *fuer in feit*, (*in facto*)
when a man doth apparently and
corporally flye, and *fuer in ley*,

(*in lege*) when being called in
the County, hee appeareth not un-
till he bee outlawed: for this is
flight in interpretation of Lawe.
Stawms. pl. cor. lib. 3. cap. 22.

Fugitives goods, (*bona fugitivorum*) be the proper goods of him
that flyeth upon felony, which
after the flight lawfully found,
doe belong to the King. *Coke vol.*
6 fol. 109. b.

Furlong, (*ferlingum terra*) is
a quantitie of ground contain-
ing twenty Luggs or Poles in
length, and every Pole sixteene
foote and a halfe, eight of which
Furlongs make a Mile, *Anno*
35. Edward. prim. cap. 6. It is
otherwise the eighth part of an
Acre. See *Acre*. In the former
signification the *Romanes* call it
(*stadium*,) in the latter (*inger-*
um. This measure which wee
call a Pole is also called a Perch,
and differeth in length, according
to the customz of the Countrey.
See *Perch*.

Furre (*furrura*) commeth of
the French (*fouurer*. i. *pellicu-*
lare) to line with skinnes. Of
furre I find divers strange kinds
in the Statute, *anno 24. H. 8. cap.*
13. as of *Sables*, which is a
rich furre of colour betweene
blacke and browne, being the
skinne of a beast called a Sa-
ble, of quantitie betweene a
Polecat, and an ordinarie Cat,
and of fashion like a Polecat,

bred in *Russia*, but most and the best in *Tartaria*. Lucerns, which is the skin of a Beast so called, being neere the bignesse of a Wolfe, of colour betweene red and browne, something mailed like a Cat, and mingled with blacke spots, bred in *Muscovia* and *Russia*, and is a very rich Furre. Genets, that is the skin of a Beast so called, of bignesse betweene a Cat and a Weezle, mailed like a Cat, and of the nature of a Cat, bred in *Spaine*; Whereof there be two kindes, blacke, and gray; and the blacke the more precious Furre, having blacke spots upon it hardly to be seene. Foines, is of fashion like the Sable bred in *France* for the most part: the top of the Furre is blacke, and the ground whitish. Marterne, is a beast very like the Sable, the skin something courser, it liveth in all Countries that be not too cold, as *England*, *Ireland*, &c. and the best be in *Ireland*. Miniver, is nothing but the bellies of Squirrels, as some men say: others say, it is a little vermin like unto a Weezle milke white, and cometh from *Muscovie*. Fitch, is that which wee otherwise call the Polecat heere in *England*. Shankes, be the skin of the shank or leg of a kind of Kid which beareth the Furre, that wee call Budge. Calaber, is a litle Beast,

in bignesse, about the quantitie of a Squirell, of colour gray, and bred especially in High *Germanie*.

G

G Abell (*gabella, gabellum*) cometh of the French (*gabelle. i. vectigal*) and hath the same signification among our old Writers, that (*gabelle*) hath in *France*, for *M. Camden* in his *Britannia* pag. 213. speaking of *Wallingford*, hath these words: *Continebat 276. hagas. i. domos redditentes novem libras de gablo:* and pag. 282. of *Oxford* these: *Hac urbs reddebat pro telonio & gablo, & aliis consuetudinibus per annum, Regi quidem viginti libras, et sex sextarios mellis: Comiti vero Algaro decem libras. Gabella* (as *Cassianus* defineth it, *de consuet. Burgund. pag. 119. Est vectigal quod solvitur pro bonis mobilibus, id est, pro hiis quæ vehuntur, distinguishing it from Tributum, quia Tributum est propriè, quod fisco vel Principi solvitur pro rebus immobilibus.*

Gage, (vadium) cometh of the French (*gager. i. dare pignus, pignore certare*) and is it selfe a French word nothing changed, but in pronounciation. It signifieth with us also, a pawne or pledge, *Glanville, lib. 10. cap. 6.* where he saith thus: *Quandoque*

res mobiles ponuntur in vadium, quandoque res immobiles, and a little after that, thus: *In vadiatur res quandoque ad terminum, quandoque sine termino. Item quandoque in vadiatur res aliqua in mortuo vadio, quandoque non.* And from that chapter to the end of the twelfth in the same booke, he handleth this only thing. Though the word (*gage*) bee retained as it is a substantive, yet as it is a verbe, the use hath turned the *G.* into *W.* so as it is oftener written (*wage*:) as to wage deliverance, that is, to give securitie that a thing shall bee delivered. For if hee that distrained, being sued, have not delivered the cattell that were distrained, then hee shall not onely avow the distresse, but (*gager deliverance*) i. put in suretie, that hee will deliver the cattell distrained. *Fitzh. nat. br. fol. 74. D. & 67. F.* whom see also *fol. 67. F. G.* yet in some cases, hee shall not bee tyed to make this securitie: as if the cattell died in pound. *Kitchin. fol. 145.* or if he claime a property in the cattell sued for. Termes of the law. To wage law what it is, see in his place. *verbo. Lame. See Mortgage.*

Gager deliverance. See *Gage.*

Gayle. See *Gaoll.*

Gainage, (Wainagium) is neere to the French (*Gaignage. i. questus, lucrum*) and signifieth in our

common law, the land held by the baser kind of Sokemen or villeines. *Bracton. lib. 1. cap. 9.* where hee hath these words, speaking of servants: *Et in hoc legem habent contra dominos, quod stare possunt in iudicio contra eos de vita & membris propter sevitiā dominorum, vel propter intolerabilem injuriam. Ut si eos distringant, quod saluum non possit eis esse Wainagium suum. Hoc autem verum est de illis servis, qui tenent in antiquo dominico corone.* And againe, *lib. 3. tract. 2. cap. 1. Miles & liber homo non amerciabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum, et salvo contentemento suo: Mercator vero, non nisi salva mercandiza sua: & villanus, non nisi salvo Wainagio suo.* This in *Westm. 1. cap. 6. ann. 3. Ed. prime* is called *Gaynure*: and againe, *cap. 17.* and in *magna charta, ca. 14.* it is called *wainage*. I find it in the *old. nat. br. fol. 117.* called *Gainor. viz.* in these words: The writ of *Aile* was *precipe, &c. quod reddat unam bovata[m] terre, & unam bovata[m] marisci:* and the writ was abated for that the oxegang is alwayes of a thing that lyeth in *gainor*. I thinke this word was used of lands usually plowed, because they that had it in occupation, had nothing of it but the profit and fruite raised of it by their owne paines, toward their suste-

nance, nor any other title, but at the Lords will. Gainor againe in the same booke, fol. 12. is used for a Sokeman, that hath such land in his occupation. In the 32. chapter of the Grand Customary of Normandie: *Gaigneurs* be *uricole* *quiterras* *elemozinatas* possident: and Britton useth gainer, for to plow or till, fol. 65. a. & 42. b. West. parte 2. *symbol. titulo, Recoveries, sect. 3.* hath these words: *Aprcipe quod reddat*, lyeth not in *Bovata marisci*, 13. Ed. 3. fol. 3. nor *de felione terre*. Edw. 1. for the uncertainty: because a felon, which is a land, sometime containeth an acre, sometime halfe an acre, sometime more, and sometime lesse. It lyeth not of a garden, cotage, or croft. 14. *Affis.* 13. 8. H. 63. 22. Ed. 4. 13. *de virgata terre.* 41. 43. 13. Ed. 3. *de fodina, de minera, de mercatu.* 13. E. 3. for they bee not in demesne: but in gaine, &c. Lastly, in the statute of Distresses in the Exchequer. anno 51. Hen. 3. I find these words. No man of religion, nor other, shall bee distreined by his beasts that gaine the land.

Galege, (*galica*) seemeth to come of the French, (*galloches*) which signifieth a certaine kind of shoo worne by the *Gaules* in foule weather of old times. I find it used for some such imple-

ment. anno 4. Ed. 4. ca. 7. & anno 14. & 15. H. 8. cap. 9. where it is written plainly. *Galoches*.

Galingal (*cyperus*) is a medicinall herbe, the nature and diversity whereof is expressed in *Gerards herball*, lib. 1. cap. 22. The roote of this is mentioned for a drugge to be garbled. ann. 1. Iaco. cap. 19.

Gallihalpens, were a kind of coine forbidden by the statute. anno 3. H. 5. cap. 1.

Galloches. See *Galege*.

Gals (*Galla*) be a kind of hard fruite like a nutte, but rounder, growing of the tree called in latine (*galla*.) The divers kinds and uses whereof *Gerard* expresseth in his *Herball*. lib. 3. cap. 34. This is a drugge to be garbled. anno 1. Iaco. cap. 19.

Gaol (*gaola*) commeth of the French (*Geole. i. caveola*) a cage for birds, but is metaphorically used for a prison. Thence cometh (*Geulier*) whom wee call *Gayler* or *Gaoler*.

Garbe (*garba*) commeth of the French (*garbe, aliàs, gerbe. i. fascis*.) It signifieth with us, a bundle or sheafe of corne. *Charta de foresta*. cap. 7. and *garba sagittarum*, is a sheafe of arrowes. *Skene de verb. significat verbo Garba*.

Garbling of *bow-stanes*. anno 1. R. 3. cap. 11. is the sorting or culling out the good from the bad.

bad. As garbling of Spice, is nothing but to purifie it from the drosse and dust that is mixed with it. It may seeme to proceed from the Italian (*garbo*) that is, fineness, neatnesse.

Gard (*Custodia*) commeth of the French (*garde*) being all of one signification. It signifieth in our common law, a custodie or care of defence: but hath divers applications: sometimes to those that attend upon the safetie of the Prince, called Yeomen of the Guard: sometime to such as have the education of children under age, or of an Idiot: sometime to a writ touching Wardship. Which writs are of three sorts: one called a right of guard or ward, in french, *droit de gard*, *Fitzh. nat. br. fol. 139.* The second is *ejectment de gard*. *Idem fol. 139. L.* The third, is *ravishment de gard*. *Idem fol. 140. F. G.* See *Gardein*, see *Ward*.

Gardein (*Custos*) commeth of the French (*Gardien*) and yet the German (*Warden*) is neere unto it. It signifieth generally him, that hath the charge or custodie of any person or thing: but most notoriously him, that hath the education or protection of such people, as are not of sufficient discretion, to guide themselves and their owne affaires, as Children and Idiots:

being indeede as largely extended, as both (*Tutor* and *Curator*) among the Civilians. For whereas *Tutor* is hee, that hath the government of a youth, untill hee come to fourteene yeares of age, and *Curator*, hee that hath the disposition and ordering of his substance after ward, untill hee attaine to five and twenty yeares: or that hath the charge of a franticke person during his lunacie: the common Lawyers use but onely *Gardien* or *Gardian* for both these. And for the better understanding of our English law in this thing, you must know, that as *tutor* is either *testamentarius*, or *à Pratore datum ex lege Ailia*, or lastly, *legitimus*: so wee have three sorts of *Gardeines* in England: one ordained by the father in his last will, another appointed by the Iudge after ward, the third cast upon the Minor by the law and custome of the land. Touching the first, a man having goods and chatels never so many, may appoint a gardein to the body or person of his child, by his last will and testament, untill he come to the age of fourteene yeares, and so the disposing or ordering of his substance, untill what time he thinketh meet, and that is most commonly to the age of 21. yeres. The same may he doe, if he have lands to never so great a valew, so they

hold not *in capite* of the King, nor of any other Lord, by Knights service. And in the former case, if the father appoint no Gardein to his child, the Ordinarie may appoint one to order his moveables and chatels, untill the age of fourteen yeares: at which time hee may chuse his guardian, accordingly as by the civill Law hee may his *Curator*. For we hold all one rule with the Civilians in this case: and that is, *Invito curator non datur*. And for his lands, if he hold any by copie of court rolle, commonly the Lord of the fee appointeth him a guardian, untill he come to the age of 14. yeares, and that is one, next of kind to the Minor of that side, that can hope for least profit by his death. If hee hold by charter in socage, then the next of kind on that side by which the land commeth not is the guardian: and hereupon called *guardian in socage*. And that which is said here of socage seemeth to be true likewise in *petit sergeantie*, *anno viceesimo octavo. Eduardi primi. statuto primo*. And the reason of this, *Forrescue* giveth in his booke, intituled, *A commendation of the politique lawes of England. cap. 44. viz.* because there might bee suspicion, if the next kinsman on that side by which the land descendeth, should have the custody

and education of the child, that for desire of his land, hee might bee entised to worke him some mischiefe. Lastly, if a man dye seised of lands, holding by Knights service, leaving his heire in minoritie, that is, under 21. yeares: the Lord of the fee hath by law, the custody both of the heire and his land, untill he come to age. See the statute, *anno 28. Ed. prim. statut. prim.* And the reason of this, *Forrescue* likewise giveth, for that hee to whom by his tenure he oweth Knights service, when hee can performe it, is likeliest to traine him up in martiall and ingenious discipline, untill hee be of ability. But *Polidore Virgil* in his Chronicle, lib. 16. saith, that this was *Novum vectigalis genus excogitatum*, to helpe *Henry the third*, being oppressed much with poverty, by reason hee received the kingdom much wasted by the wars of his ancestors: and therefore needing extraordinary helps to uphold his estate: yet the 33. chapter of the Grand Customary, maketh mention of this to have beene used by the *Normans*: and I thinke this the truer opinion. Here it is to bee observed, whether land in Knights service hold *in capite*, or of another Lord, or some of the King, and some of another. If of the King, whether of the King alone or not, all is one,

one. For the King in this case is Guardian to the heires both person and land by his prerogative.

Stawnsford prerogat. cap. 1. If hee hold of a common Lord, it is either of one alone, or more; if of one onely, then is hee Guardian of both person and lands; if of more, then the Lord of whom hee holdeth by the elder tenure, is Guardian of the person, and every one of the rest hath the custodie of the land holden of himselfe. If the prioritie of the tenure cannot be discerned, then is hee Guardian of the person, that first happeth him. Termes of the law. *Stawnsford ubi supra.* whom you may reade more at large: which Author *fol. 19.* maketh mention of *Gardeyn in fait*, and *Gardeyn in droit*: that is, in deed, and in law: I take the first to be him that hath purchased, or otherwise obtained the ward of the Lord of whom the land holdeth: The second, him that hath the right by his inheritance and seignorie, *Oldnat br. fol. 94.* Then is there *Gardeyn per cause de gard*, which is hee that hath the wardship of a Minor, because hee is Guardian of his Lord, being likewise in minoritie, *Stawnsford ubi supra. fol. 15.* Of this you may reade *Skene de verb. signif. verbo Varda*, by whom you may learne great affinity: and yet some dif-

ference betweene the Law of Scotland, and ours in this point.

Guardia, is a word used among the Feudists, for the Latine (*Custodia*) and *Guardianus* (eu *guardio dicitur ille, cui custodia commissae est, lib. Fendo, 1. titulo 2. & titulo 11.*

Gardeyn of the Spiritualties, (*Custos spiritualium, vel spiritualitatus*) is he to whom the spirituall jurisdiction of any Diocesse is committed, during the vacancie of the See, *anno 25. H. 8. cap. 21.* And I take, that the *Gardeyn of the Spiritualties*, may be either *Guardein in law*, or *Iure Magistratus*, as the Archbishop is of any Dioces within his Province, or Guardian by delegation, as he whom the Archbishop or Vicar generall doth for the time depute.

Gardeyn of the peace, (*Custos pacis.*) See *Conservatour of the peace.*

Gardeyn of the Cinque ports, (*Guardianus quinque portuum*) is a Magistrate that hath the jurisdiction of those Havens in the East part of *England*, which are commonly called the Cinque ports, that is, the five havens: who there hath all that jurisdiction, that the Admirall of *England* hath in places not exempt. The reason why one Magistrate should be assigned to these few Havens, seemeth

to bee, because they in respect of their situation, anciently required a more vigilant care, then other Havens, being in greater danger of invasion by our enemies, by reason that the Sea is narrower there then in any other place. *M. Camden* in his *Britannia*, pag. 238. saith, that the Romanes, after they had settled themselves and their Empire here in *England*, appointed a Magistrate, or Governour over those East parts, whom they tearmed *Comitem littoris Saxonici per Britanniam*, having another that did beare the same title on the opposite part of the Sea: whose office was to strengthen the Sea Coasts with Munition, against the outrages and robberies of the Barbarians. And farther signifieth his opinion, that this Warden of the Cinque ports, was first erected amongst us, in imitation of that Romane policie. See *Cinque ports*.

Gare, anno 31. Ed. 3. cap. 8. is a course wooll full of staring haire, as such as groweth about the pessi or shankes of the Sheep.

Garnishment, commeth of the French (*Garnir*. i. *instruere*.) It signifieth in our common law, a warning given to one for his appearance, and that for the better furnishing of the cause and

Court. For example, one is sued for the detinue of certaine Evidences or Charters, and saith, that the Evidences were delivered unto him, not onely by the Plaintiffe, but by another also: and therefore prayeth, that that other may be warned to pleade with the Plaintiffe, whether the said conditions bee performed, yea or no. And in this petition hee is said to pray Garnishment. New booke of Entries, fol. 211. colum. 3. *Terms of the Law*. *Cromptons Jurisd.* fol. 211. which may be interpreted either warning of that other, or else furnishing of the Court with parties sufficient, throughly to determine the cause: because untill he appeare and joyne, the Defendant (as *Fitzherb.* saith) is, as it were, out of the Court, *nat. br.* fol. 106. G. and the Court is not provided of all parties to the action. I am the bolder thus to interpret it, because I find *Britton* in the same mind, cap. 28. where he saith, that contracts be some naked, and *sans* garnment, and some furnished, or to use the literall signification of his word, apparelled: but a naked Obligation giveth no action, but by common assent. And therefore it is necessary or needfull, that every Obligation be apparelled. And an Obligation ought to be apparelled with these five sorts of

of garnements, &c. Howbeit, I reade it generally used for a warning in many places, and namely, in *Kitchin, fol. 6. Garnisher le court*, is to warne the Court. And reasonable garnishment in the same place, is nothing but reasonable warning: and againe, *fol. 283.* and many other Authours also. But this may be well thought a Metonymie of the effect, because by the warning of parties to the Court, the Court is furnished and adorned.

Garrantie. See *Warrantie.*

Garter (*Garterium*) commeth of the French (*Iartiere* or *Iartier*. i. *periscelis, fascia poplitaria.*) It signifieth with us both in divers statutes, and otherwise, one especiall Garter, being the ensigne of a great and Noble Societie of Knights, called Knights of the Garter. And this is *καὶ ἐξοχήν*, as *Poeta* among the *Græcians*, was *Homer*, among the *Romanes*, *Virgill*, because they were of all others the most excellent. This high order (as appeareth by *M. Camden, pag. 211.*) and many others, was first instituted by that famous King, *Edward the third*, upon good successe in a skirmish, wherein the Kings garter (I know not upon what occasion) was used for a token. I know that *Polidore Virgill* casteth in another suspicion of the originall:

But his grounds, by his owne confession, grew from the Vulgar opinion: yet as it is, I will mention it as I have read it. *Edward the third*, King of *England*, after hee had obtained many great victories: King *John* of *France*, King *James* of *Scotland*, being both prisoners in the tower of *London* at one time; and King *Henry* of *Castile*, the *Bastard* expelled, and *Don Pedro* restored by the Prince of *Wales*, did upon no weightie occasion first erect this order in *Anno 1350. viz.* Hee dancing with the Queene, and other Ladies of the Court, tooke up a Garter that happened to fall from one of them: whereat some of the Lords smiling, the King said unto them, that ere it were long, hee would make that Garter to be of high reputation, and shortly after instituted this order of the Blew Garter, which every one of the order is bound daily to weare, being richly decked with gold and precious stones, and having these words written, or wrought upon it: *Honi soit qui mal y pense:* which is thus commonly interpreted: Evill come to him that evill thinketh. But I thinke it might be better thus: Shame take him that thinketh evill. See Knights of the Garter. *M. Ferne* in his glory of generosity agreeeth with *M. Camden*, and expresseth

setteth downe the victories, whence this order was occasioned: whatsoever cause of beginning it had, the order is inferior to none in the world, consisting of 26. martiall and heroicall Nobles, whereof the King of *England* is the chiefe, and the rest be either Nobles of the Realme, or Princes of other countries, friends and confederates with this realm; the Honour being such, as Emperors and Kings of other Nations, have desired, and thankfully accepted it: he that will reade more of this, let him repaire to *M. Camden*, and *Folidore*, and *M. Ferne fol. 120. ubi supra*.

The Ceremonies of the chapter proceeding to election, of the investures and robes: of his installation, of his vow, with all such other Observances, see in *M. Segars* new booke, intituled *Honour militarie and civill, lib. 2. cap. 9. fol. 65*. Garter also signifieth the principall King at Armes, among our English Heralds created by King *Henry* the fift, *Stow. pag. 584*.

Garthman, anno 13. R. 2. stat. 1. ca. 19. & anno 17. ejusd. ca 9.

Gavelet, is a speciall and ancient kind of *Cessavit* used in *Kent*, where the custome of *Gavill* kind continueth: whereby the tenent shall forfeit his lands and tenelements to the Lord of whom hee holdeth, if hee withdraw from

him his due rents and services. The new Expounder of Law Termes, whom reade more at large: I reade this word, *anno 10. Edw. 2. cap. unico*. where it appeareth to be a writ used in the *Hustings* at *London*. And I find by *Fleta*, that it is used in other liberties, as the *Hustings* of *Winchester*, *Lincolne*, *Torke*, and the *Cinquo ports*, *lib. 2. cap. 55. in principio*.

Gavelkind, is, by *M. Lamberd* in his exposition of Saxon words, *verbo. Terra ex scripto*, compounded of three Saxon words, *gyfe, cal, cin: omnibus cognatione proximis data*. But *M. Verslegan* in his restitution of his decayed intelligence, *cap. 3.* calleth it (*Gavelkind*) *quasi*, give all kind, that is, give to each child his part. It signifieth in our common law, a custome, whereby the lands of the father is equally divided at his death amongst all his sons, or the land of the brother equally divided among the brethren, if hee have no issue of his owne, *Knt. fo. 102*. This custome is said to be of force in divers places of *England*, but especially in *Kent*, as the said Authour reporteth, shewing also the cause why *Kentish* men rather use this custome, then any other Province. *viz.* because it was a composition made betweene the Conquerour and them, after all *England*

England beside was conquered, that they should enjoy their ancient customes, whereof this was one. For *M. Camden* in his *Britannia*, pag. 239. saith in expresse words thus: *Cantiani eâ lege Guilielmo Normano se dediderunt, ut patrias consuetudines illas retinerent, illamq; inprimis quam Gavelkind nominant. Hac terra quæ eo nomine censentur, liberis masculis ex æquis portionibus dividuntur: vel sceminis, si masculi non fuerint:* adding more worth the noting, viz. *Hanc hereditatem, cum quintum decimum annum attigerint, adeunt, & sine Domini consensu, cuilibet, vel dando, vel vendendo, alienare licet. Hac filii parentibus furti damnatis in id genus fundis succedunt, &c.* This custome in divers gentlemens lands, was altered at their owne petition, by Act of Parliament. anno 31. H. 8. cap. 3. But it appeareth by 18. H. 6. cap. pri. that in those dayes there were not above thirty or fourty persons in *Kent*, that held by any other tenure. See the new Termes, *Gavelet*, and *Gavelkinde*.

Gawgeour, (*gaugeator*) seemeth to come of the French (*Gawchir. i. in gyrum torquere.*) It signifieth with us an Officer of the Kings appointed to examine all tunnes, hogshheads, pipes, barels, and tercians of wine, oyle, honey, butter, and to give them a

marke of allowance, before they bee sold in any place. And because this marke is a circle made with an iron instrument for that purpose: it seemeth that from thence hee taketh his name. Of this office you may find many statutes: the first whereof is, anno 27. Ed. 3. commonly called the statute of provision, or *Purveyours*, cap. 8.

Geld, signifieth with the Saxons, *pecunia vel tributum*. See *Gyld*.

Genets, aliàs *Ienets*. See *Furre*.

Gentleman, (*generosus*) seemeth to be made of two words, the one French, (*gentil. i. honestus, vel honesto loco natus:*) the other Saxon (*Mon*) as if you would say, a man well borne. The Italian followeth the very word, calling those (*gentil homini*) whom wee call *Gentlemen*. The Spaniard keepeth the meaning, calling him *Hidalgo*, or *Hijo d'algo*, that is, the sonne of some man, or of a man of reckoning. The French men call him also *gentil homme*: so that gentlemen be those, whom their blood and race doth make noble and knowne. *εὐγενής*, in Greeke, in Latine, *Nobiles*. *Smith. de Repub. Anglor. lib. 1. cap. 20.* under this name are all comprised that are above Yeomen: so that Noblemen be truly called Gentlemen.

But by the course and custome of England, Nobilitie is either *major* or *minor*: the greater contains all titles and degrees from Knights vpward: the lesser all from Barons downward. *Smith ubi supra, cap. 21.* The reason of the name, as I take it, groweth from this, that they obserue *gentilitatem suam*, that is, the race and propagation of their blood, by giving of armes, which the common sort neither doth, nor may doe. For by the Coate that a gentleman giveth, he is known to be, or not to bee descended from those of his name, that lived many hundred yeares since. Howbeit, that this is neglected, where substance faileth to maintaine the countenance. For many of great birth fall to poverty, whose posteritie living and labouring in want, haue small encouragement, to looke after the titles of their Auncestors, and so in time slippe into the number of the ignoble sort: yet if they by their vertue or fortune, can againe advance themselves to sufficient ability, the Herald out of his observations can restore them to the Coate of their Progenitors, and now and then helpe them to one, that their Auncestors never ware. *Gentiles homines*, see in *Tiraquel, de Nobilitate, cap. 2. pag. 53.* Tully in his *Tropicke*s thus saith of this matter. *Gentiles sunt,*

qui inter se eodem sunt nomine ab ingenuis oriundi, quorum majorum nemo servitutem servivit, qui capite non sunt diminuti. And in the first booke of his *Tusc. questions*, hee calleth *Tullum Hostilium*, one of the Kings of Rome, *gentilem suum.*

Generall Issue. vid. Issue.

Gestu & fama, is a writ. *Lamb. Eirenarcha. lib. 4. ca. 14. pa. 531.*

Gygge milles, were for the Fulling of Wollen Cloath and forbidden, *Anno 5. Edward. 6. cap. 22.*

Gild: alias Geld (gildare) cometh from the Saxon word (*Gildan*). i. *solvere*, *Lamb.* in his explication of Saxon words saith, *verbo, Contubernalis.* It is used as a verbe, and as a substantive also, and as it is a substantive, it is latined *Gilda*, and signifieth a Tribute, or sometime an Amercement, or thirdly, a Fraternitie or Company, combined together by orders and lawes made among themselves by the Princes license. *M. Camden* citeth many antiquities, by which it appeareth to signifie a tribute or taxe, as *pa. 135. 139. 159. 168. 178. M. Crompton* in his *Iurisdiction*s, *fol. 191.* sheweth it to be an amercement, as *footgeld*, and *fol. 197.* hee interpreteth it to bee a prestation within the Forest, in these words: To be quit of all manner of *Gelds*, is to be discharged of all manner

manner of prestations to bee made for gathering of sheaves of corne, of lambe, and of wooll to the use of *Foresters*. Againe, *M. Camden pag. 349.* dividing Suffolke into three parts, calleth the first *Gildable*, because tribute is thence gathered; the second *libertatem S. Edmundi*: The third *libertatem S. Etheldrede*. And the statutes: *anno 27. Ed. 3. stat. 2. ca. 13.* & *anno 11. H. 7. ca. 9.* use *Gildable* in the same sense, and so doth the statute, *anno 27. Hen. 8. ca. 26.* From this *M. Lamberd, ubi supra*, is likewise perswaded, that the common word (*Gild*) or (*Gildhall*) doth proceed, being a fraternity or communalty of men gathered into one combination, supporting their common charge by a mutuall contribution: And in the Register original, *fol. 219. b.* I reade *Gildam mercatoriam*, that is the *Gilde Merchant*, which I have heard to bee a certaine liberty or privilege belonging to Merchants, whereby they are enabled to hold certaine plesses of land within their owne precincts. This word (*Gildes*) or (*Guildes*) is so used *anno 37. Ed. 3. cap. 51.* & *anno 15. R. 2. cap. 5.* And *Gildhalda Teutonicorum*, is used for the fraternity of easterling Merchants in London, called the *stilyard*, *anno 22. Hen. 8. cap. octavo.*

Ginger (*Zinziber*) is a spice well knowne, being the roote of a plant that groweth in hot countries, as *Spaine, Barbary, &c.* The true forme whereof you have expressed in *Gerards herball, lib. 1. cap. 38.* This is a spice whose roote is to bee garbled, *anno 1. Iaco. cap. 19.*

Ginny peper (*piper de Ginnea*) is otherwise called *Indian peper*, of the place whence it commeth. The nature and farther description whereof you have in *Gerards herball, lib. 2. cap. 66.* This you have mentioned among druggs and spices to bee garbled, in the statute. i. *Iaco. cap. 19.*

Gisarms: *anno 13. Ed. 1. stat. 3. cap. 6.* is a kind of weapon. *Fleta* writeth it *Sisarmes. lib. 1. cap. 24.* *S. item quod quilibet.*

Glawnce Ore, *Plowden case Mines. fol. 320. b.*

Glanuill was a learned Lawyer, that was chiefe Iustice in *Henry* the seconds dayes, and writ a booke of the common lawes of *England*, which is the ancientest of any extant touching that subject, *Stannf. prerog. cap. prim. fol. 5.* Hee was then called in *Latine Ranulphus de Glanvilla*. Hee died in *Richard* the first his dayes at the Citie of *Acres* in the coast of *Iury*, being with him in his voyage to the holy land. *Plowden. casu. Stowel. folio, 368. b.*

Goe, is used sometime in a speciall signification in our common law : as to goe to God, is to bee dismissed the Court. *Brooke titulo. Fayler de records. num. 1.* Goe forward, seemeth also to bee a signe given by a Iudge to the Sergeant or Counceler, pleading the cause of his Client, that his cause is not good. For when hee standeth upon a point of law, and heareth those words of the Iudges mouth, hee taketh understanding, that hee looseth the Action. *Smith. de Repub. Anglo. lib. 2. cap. 13.* To goe without day, is as much as to bee dismissed the Court. *Kitchin. fol. 193.*

Good behaviour. See *Good abearing*
Good abearing, (*Bonus gestus*) is, by an especiall signification, an exact cariage or behaviour of a subject, toward the King and his liege people, whereunto men upon their evill course of life, or loose demeanure are sometimes bound. For as *M. Lamberd* in his *Eirenarcha. lib. 2. cap. 2.* saith: hee that is bound to this, is more strictly bound then to the peace : because, where the peace is not broken without an affray, or batterie, or such like: this surety (*de bono gestu*) may bee forfeited by the number of a mans company, or by his or their weapons or harnesse : Whereof see more in that learned Writer in the same chapter, as also in *M. Cromptons*

Iustice of peace. fol. 119. b. 120. 121. 122. 123. 124. 125. 126. 127.

Good countrey, (*Bona patria*) is an Assise, or Iury of country men or good neighbours : *Skene de verbo. signif. verbo, Bona patria.*

Graffer (*grafarius*) signifieth as much as a notarie or Scrivener. It commeth of the French (*greffier. i. scriba, actuarium.*) This word is used in the statute, *ann. 5. H. 8. c. 1.*

Graines (*grana paradisi, aliàs Cardamomum*) is a spice medicinal and wholesome, whereof you may see divers kinds in *Gerards herball. l. 3. ca. 148.* These are comprised among merchandise that be to be garbled. *an. 1 l. c. 19.*

Grand assise. See *Assise*, and *Magna assisa.*

Grand Cape. See *Cape* and *Attachment.*

Grand Sergeanty. See *Chyvalrie*, and *Seargeantye.*

Grand distresse : (*Magna distressio*) is a distresse taken of all the lands, and goods, that a man hath within the county or bayliwicke, whence hee is to bee distrained : *Fleta. lib. 2. cap. 69. §. penult.* See *Distresse.* This word is used *anno 51. H. 3. cap. 9.* This falleth out when the Defendant hath beene attached, and yet appeareth not upon his attachment; or when he appeareth and afterward makes default. For then the Sheriffe is commanded to distrein the Defendant, by all his goods and

and chattels, and to answer the King the issues of his lands.

Grange (*grangia*) is a house or building, not onely where Corne is laid up, as Barnes be, but also where there be stables for horses, stables for oxen, and other cattell, sties for hogs, and other things necessary for Husbandry, *Lindwood ca. item omnes de iudiciis verbo, Grangis, in glossa.*

Grant (*Concessio, grantum*) *Glanville*, signifieth specially in our common law, a gift in writing of such a thing, as cannot aptly be passed or conveyed by word onely: as Rent, Reversions, Services, Advowsons in grosse, Common in grosse, Villein in grosse, Tithes, &c. or made by such persons, as cannot give but by deed, as the King, and all bodies politicke: which differences be often in speech neglected, and then is it taken generally for every gift whatsoever, made of any thing by any person, and hee that granteth it, is named the Grantour, and hee to whom it is made, the Grantee, *West. parte 1. symbol. lib. 2. Sect. 334.* A thing is said to lie in grant, which cannot be assigned without deed, *Coke, li. 3. Lincolns Coll. case fo. 63. a.*

Great men, are sometimes understood of the Laity of the higher house of Parliament, as *an. 43. Ed. 3. ca. 2. & an. 8. R. 2. in proem.* and sometime of the Knights, &c.

of the lower house, as *an. 2. R. 2. stat. 2. in principio.*

Gree, commeth of the French (*Grè. i. sententia, beneplacitum.*) It signifieth in our common law, contentment or good liking: as to make gree to the parties, is to satisfie them for an offence done, *anno 1. R. 2. ca. 15.*

Greachbreach, is breaking of the peace. *Saxon* in the description of England, *ca. 11. v. Rastal. titulo Exposition of words.* The new expounder of Law Termes writeth it (*Grichbreach*) and giveth it the same signification. See *Greve.*

Greene hewe, is all one with vert, *Manwood parte 2. of his forest lawes. ca. 6. nu. 5.* See *Vert.*

Greene waxe, seemeth to be used for estreats delivered to Sheriffs out of the Exchequer, under the Seale of that Court, to be levied in the County, *anno 42. Ed. 3. ca. 9. & anno 7. H. 4. ca. 3.* See *Forein apposer.*

Greve (*præpositus*) is a word of power and authority, signifying as much as *Dominus*, or *præfectus*. *Lamberd in his exposition of Saxon words, verbo Præfectus.* where he seemeth to make it all one with (*Reve*) as I thinke undoubtedly it is: The Saxon word is *Gerefa*, whereof wee have divers words compounded, as *Shyreeve*, *Portgreeve*, &c. which were wont of the Saxons to be written *Scyrgerefa*:

refa: Portgerefā. See Skyreewe and Portgreve. See Roger Hoveden parte poſter. ſuorum annal. fol. 346. b. where hee ſaith thus: Greve dicitur, ideo quod jure debeat griſhe. i. pacem ex illis facere, qui patria inferunt Va. i. miſeriam vel malum.

Griſhbreach, is a breach of peace. For Griſh is a word of the old Angles, ſignifying peace. Roger Hoveden parte poſte. ſuorum annal. fo. 346. b. See Greachbreach.

Grills, anno 22. Ed. 2. ca. 2.

Grocers, be Merchants that ingroſſe all merchandize vendible anno 37. Ed. 3. ca. 5.

Groome, anno 33. H. 8. ca. 10. (Valletus) is the name of a ſervant that ſerveth in ſome inferiour place. M. Verſlegan in his Reſtitution of decayed intelligence ſaith, that hee findeth it to have beene in times paſt a name for youths, who albeit they ſerved, yet were they inferiour to men ſervants, and were ſometimes uſed to be ſent on foot of errands, ſerving in ſuch manner as Lackeyes doe now.

Growme, an. 43. E. 3. ca. 10. ſeemeth to be an engine to ſtretch Woollen cloath withall after it is woven.

Gnydage (Gnydagium) is that which is given for ſafe conduct through a ſtrangeterritorie, Caſſanew de conſuetud. Burgun. pag. 119. whoſe words be theſe: Eſt Gnydagium quod datur alicui, ut

tutò conducatur per loca alterius. Gnylde. See Gylde.

Gnylhalda Tentonicorum. See Gild.

Gule of Auguſt (Gula Auguſti) anno 27. Ed. 3. ſtat. 3. cap. unico Fitzb. nat. br. fol. 62. l. aliàs Goule de Auguſt. Plowd. caſu Mines, fo. 316. b. is the very day of Saint Peter ad vincula, which was wont, and is ſtill within the limits of the Roman Church, celebrated upon the very Kalends of Auguſt. Why it ſhould be called the Gule of Auguſt, I cannot otherwiſe conjecture, but that it commeth of the Latine (gula) or the French (gueule) the throat. The reaſon of my conjecture is in Durands rationali divinatorum. li. 7. ca. de feſto Sancti Petri ad vincula. who ſaith that one Quirinus a tribune, having a Daughter that had a diſeaſe in her throat, went to Alexander then Pope of Rome, the ſixt from Saint Peter, and deſired of him to borrow, or ſee the chaines that Saint Peter was chained with under Nero: which requeſt obtained, his ſaid Daughter kiſſing the ſaid chaine, was cured of her diſeaſe, and Quirinus with his family was baptiſed. Tunc dictus Alexander papa (ſaith Durand) hoc feſtum in Kalendis Auguſti celebrandum inſtituit, & in honorem beati Petri eccleſiam in urbe fabricavit, ubi vincula ipſa repoſuit, & ad vin-

vincula nominavit; & Kalendis Augusti, dedicavit. In qua festiuitate, populus illic ipsa vincula hodie osculatur. So that this day being before called onely the Kalends of *August*, was upon this occasion afterward termed indifferently either of the instrument that wrought this miracle, *Saint Peters day ad vincula*, or of that part of the Maiden, whereon the miracle was wrought, the *Gule of August*.

Gulwit, seemeth to be compounded of (*Gult. i. noxa*) and *wit*, which is said by some skillfull men, to be an ancient termination of the words in the Saxon tongue, signifying nothing in it selfe, but as (*dom*) or (*hood*) and such like be in these English words (*Christendom*) and (*Manhood*) or such others: others say, and it is true, that *wit* signifieth blame or reprehension. *Gulwit* (as *Saxon* in his description of *England, ca. 11.* doth interpret it) is an amends for Trespasse.

Gust (*Hospes*) is used by *Bracton* for a stranger or guest, that lodgeth with us the second night: *lib. 3. tractat. 2. cap. 10.* In the lawes of *Saint Edward*, set forth by *M. Lamberd, num. 27.* it is written *Gest*: of this see more in *Uncotho*.

Gumme (*gummi*) is a certaine clammy or tough liquor, that in manner of a sweatie excrement

issueth out of Trees, and is hardened by the Sun. Of these, there be diuers sorts brought over Seas, that be drugs to be garbled, as appeareth by the statute *anno 1. Iaco. ca. 19.*

Gutter tile, aliàs corner tile, is a tile made three corner wise, especially to be laid in Gutters, or at the corners of tiled houses, which you shall often see upon Dovehouses, at the foure corners of their roofes, *anno 17. Edwardi 4. cap. 4.*

H A

H *Abeas corpus*, is a writ, the which a man indited of some Trespasse before Iustices of Peace, or in a Court of any franchise, and upon his apprehension being laid in prison for the same, may have out of the Kings bench, thereby to remove himselfe thither at his owne costs, and to answer the cause there, &c. *Fitzb. nat. br. fol. 250. H.* And the order is in this case, first to procure a (*Certiorari*) out of the Chancery directed to the said Iustices for the removing of the Inditement into the King Bench, and upon that, to procure this writ to the Sheriffe, for the causing of his body to be brought at a day, *Regist. judicial. fol. 81.* where you shall find diuers cases, wherein this writ is used.

Habeas corpora, is a writ that

lieth for the bringing in of a Iurie, or so many of them, as refuse to come upon the (*venire facias*) for the triall of a cause brought to issue, *Old nat. br. fol. 157*. See great diversitie of this writ, in the table of the Register Iudiciall, *verbo, habeas corpora*; and the new booke of Entries, *verbo eodem*.

Habendum, is a word of forme in a deed of conveyance, to the true understanding whereof, you must know, that in every deed of conveyance, there be two principall parts, the Premisses, and the *Habendum*. The office of the Premisses is, to expresse the name of the Grantour, the Grantee, and the thing granted, or to be granted. The office of the (*habendum*) is to limit the estate, so that the generall implication of the estate, which by construction of law passeth in the Premisses, is by the (*habendum*) controlled and qualified. As in a lease to two persons, the (*habendum*) to one for life, the Remainder to the other for life, altereth the generall implication of the joynt tenancie in the free-hold, which should passe by the Premisses, if the (*habendum*) were not. *Coke, vol. 2. Bucklers case. fol. 55*. See Use.

Habere facias seisinam, is a writ Iudiciall, which lieth, where a man hath recovered lands in

the Kings Court, directed to the Sheriffe, and commanding him to give him seisin of the land recovered, *Old nat. brev. fol. 154. Termes of the Law*: whereof see great diversitie also in the table of the Register Iudiciall, *verbo. Habere facias seisinam*. This writ is issuing sometime out of the Records of a fine executorie, directed to the Sheriffe of the Countie, where the land lieth, and commanding him to give to the Cognizee or his heires, seisin of the land, whereof the fine is levied; which writ lyeth within the yeare after the fine, or Iudgement upon a (*Scire facias*) and may be made in divers formes, *West parte 2. symb. titulo Fines. Sect. 136*. There is also a writ called *Habere facias seisinam, ubi Rex habuit annum, diem, & vastum*, which is for the redelivery of lands to the Lord of the Fee, after the King hath taken his due of his lands, that was convicted of Felonic, *Register origin. fol. 165*.

Habere facias visum, is a writ that lyeth in divers cases, where view is to be taken of the lands or tenements in question. See *Fitzh. nat. br. in Indicc. verbo, (View)* See *Bracton li. 5. tract. 3. ca. 8. & lib. 5. parte 2. ca. 11*. See *viem*. See the Register Iudiciall, *fo. 1, 26, 28, 45, 49, 52*.

Haberietis (Hamberietis) pan-

nus) magn. chart. ca. 25. & pupilla oculi. parte. 5. ca. 22.

Hambles, is the plurall of the French (*hable*) signifying as much as a porte or haven of the sea, whence ships doe set forth into other countries, and whither they doe arrive, when they returne from their voyage. This word is used, *anno 27. Hen. 6. cap. 3.*

Here de deliberando alii qui habet custodiam terra, is a writ directed to the Sheriffe, willing him to command one having the body of him, that is ward to another, to deliver him to him, whose ward hee is by reason of his land. *Register. originall. fol. 161. b.*

Here de abducto, is a writ that lyeth for the Lord, who having the wardship of his tenent under age by right, cannot come by his body, for that hee is conveyed away by another. *Old. nat. br. fol. 93. See Ravishment de Gard, and Herederapto, in Regist. orig. fol. 163.*

Heretico comburendo, is a writ that lyeth against him, that is an heretike. *viz.* that having beene once convinced of heresie by his Bishop, and having abjured it, afterward falleth into it againe, or into some other, and is thereupon committed to the secular power. *Fitzh. nat. br. fol. 269.*

Haga, is used as a kind of la-

tine word for a house. I find in an ancient booke sometime belonging to the abbey of Saint *Augustines in Canterbury*, that King *Stephen* sent his writ to the Sheriffe and Iustices of *Kent*, in this manner. *Stephanus Rex Anglorum vicecomiti & Iusticiariis de Kent salutem. precipio quod faciatis habere ecclesia sancti Augustini et monachis hagam suam quam Gosceoldus eis dedit, ita bene & in pace & justè & quietè & liberè, sicut eam eis dedit in morte sua coram legalibus testibus &c.*

Hagbut, See *Haque* and *Haquebut*.

Haye boote, seemeth to be compounded of (*Haye. i. Sepes*) and (*Boote. i. compensatio*) The former is french, and the second is saxon. And although it doe fall out sometime, that our words bee so compounded: yet it is rare. Wherefore it may bee thought peradventure to come as well from (*Hag*) and (*Boote*) which be both saxon words. It is used in our common law for a permission to take thornes and freeth to make or repaire hedges.

Halfe haque, See *Haque*.

Halfe merke (dimidia merka) seemeth to signifie a noble. *Fitzh. nat. br. fol. 5.* where he saith that in case a writ of right be brought and the seisin of the Demaundant, or his ancestor alleaged, the seisin is not traversable by

the Defendant, but hee may tender or proferre the halfe merke for the enquire of this seisin, which is as much to say in playner termes, that the Defendant shall not be admitted to deny, that the Demandant, or his Ancestour was seised of the Land in question, and to prove his deniall, but that hee shall bee admitted to tender halfea Marke in money, to have an enquiry made, whether the Demandant, &c. were so seised or not. And in this signification I reade the same words in the old English *natura brevium*, fol. 26. b. viz. Know yee that in a Writ of right of *Advowzen* brought by the King, the Defendant shall not proferre the halfe Marke, ne Judgement finall shall bee given against the King, &c. Whereof *Fitzh. ubi supra*. M. giveth the reason, because in the Kings case, the Defendant shall bee permitted to traverse the seisin by licence obtained of the Kings Sergeant. To this effect see *Fitz. net.br. fol. 31. C.D.E.*

Halfe seale, is used in the Chauncery for the sealing of Commissions unto *Delegates*, appointed upon any appeale in Ecclesiasticall or Marine causes, *an. 8. Eliz. cap. 5.*

Halfe tongue. See *Medietas lingua*.

Halymote, aliàs, *Healgemot*, is

a Court Baron. *Manwood parte prima* of his Forest Lawes. pag. 111. and the Etymologie is the meeting of the Tenants of one Hall or Mannor. *M. Gwins Preface to his Reading*, which for the esteeme thereof, is by copies spred into many mens hands.

Hallage, is a fee due for clothes brought for sale to *Blackwell hall* in London. *Coke, vol. 6. fol. 62. b.*

Hamlet (*Hamoletum*) is a diminutive of (*Ham*) which significeth *habitationem*. *Camden, Brit. pag. 149. & 354.* The French (*hameau. i. viculus*) is also neere unto it. *Kirchin* hath *Hamel* in the same sense. fol. 215. who also useth *hampsel* for an old house or cotage decayed. fol. 103. *Hamlet* (as *Stow* useth it in *Ed. 3.*) seemeth to bee the seate of a Freeholder. For there he saith, that the said King bestowed two maners and nine hamlets of land upon the monastery of *Westminster*, for the keeping of yearely obits for his wife Queene *Eleanor* deceased.

Hameling of dogges, or *hambling of dogges*, is all one with the expeditating of dogges. *Manwood parte prima* of his Forest lawes. pag. 212. & parte 2. cap. 16. num. 5. where hee saith, that this is the ancient terme that Foresters used for that matter; whence this word might

bee drawne, I dare not resolve: but it is not improbable, that *hameling* is *quasi*, *hambalding*, that is, keeping at home, which is done by paring their feet so, as they cannot take any great delight in running abroad. See *Expeditate*.

Hampsell. See *Hamlet*.

Hamsfoken, see *Homesfoken*. *M. Skene de verb. significa.* writeth it *Hainsfoken*, and deriveth it from (*Haim*) a German word, signifying a house or dwelling, and (*Suchen*) that is to seeke, search, or pursue. It is used in Scotland for the crime of him, that violently, and contrary to the Kings peace, assaulteth a man in his own house: which (as hee saith) is punishable equally with ravishing of a woman, *significat quietantiam misericordie in rationis in alienam domum vi & injuste*. *Fleta. lib. pri. cap. 47.* See *Homesfoken*.

Hand in and Hand out, anno 17. *Ed. 4. cap. 2.* is the name of an unlawfull game.

Hand full, is foure inches by the standard. anno 33. *H. 8. ca. 5.* &c.

Hankwitaliars (*Hangwit*) or (*Hengwit*) commeth of the Saxon words (*Hangen. i. pendere*) and (*wit*) whereof reade in *Gultrius: Rastall* in the title, Exposition of words saith, it is a liberty graunted unto a man, whereby

hee is quit of a felon or theefe hanged without iudgement, or escaped out of custody. I reade it interpreted, *multa pro homine injuste suspensio*. Or whether it may be a liberty, whereby a Lord chalengerth the forfeiture due for him, that fordoeth himselfe within his fee or not, let the Reader consider. See *Bloodwit*.

Hanper (*haneparium*) *haneper* of the *Chaucerie. anno 10. R. 2. cap. prim.* seemeth to signifie as *fiscus* originally doth in Latine. See *Clerke of the Hanaper*.

Hanse, (as *Ortelius* in the Index of his Additament to his *Theater, verb. Asiatici.* saith) is an old *Gothish* word; where hee sheweth not the interpretation. It signifieth a certaine societie of Merchants, combined together for the good usage and safe passage of merchandize from kingdome to kingdome. This societie was, and (in part) yet is, endued with many large priviledges of Princes, respectively within their territories. It had foure principall seates, or staples: where the *Almaine* or *Dutch Merchants* being the Erectours of this society, had an especiall house, one of which was here in *London*, called *Gildhalda Teutonicorum*, or in our common language, the *Steelyard*. Of this you may reade more in

the place of *Ortelius* above mentioned.

Happe, commeth of the French (*Flapper. i. rapio, cum quadam velocitate capio*) and the french seemeth to come from the Greeke *αἰμαζω*. It signifieth in our common law the same thing: as to *happe*, the possession of a deed poll. *Littleton, fol. 8.*

Haque, is a handgun of about three quarters of a yard long, *anno 33. H. 8. cap. 6. & a. 2. et 3. Ed. 6. cap. 14.* There is also the halfe haque or demy haque. See *Haquebut.*

Haquebut, is that peece of artillery or gunne, which we otherwise call an harquebuse, being both french words. *anno 2. & 3. Ed. 6. ca. 14. & anno 4. & 5. Ph. & Ma. ca. 2.*

Hariot, aliàs, *Heriot* (*heriotum*) is the Saxon (*heregeat*) a little altered, which is drawne from (*here i. exercitus*) and a (*heriot*) in our Saxons time signified a tribute given to the Lord for his better preparation toward warre. *Lamb.* in his explication of Saxon words, *verbo, hereotum*. The name is still retained, but the use altered: for whereas, by *M. Lamb.* opinion *ubi supra*, it did signifie so much as Reliefe doth now with us: now it is taken for the best chatell that a tenent hath at the houre of his death, due unto the Lord by custome, bee

it horse, ox, kettie, or any such like. *M. Kitchin* distinguisheth betweene *heriot service*, and *heriot custome*, *fol. 133. & 134.* for interpretation whereof, you shall find these words in *Brooke, titulo hariot. nu. 5.* *Hariot* after the death of the tenent for life, is *hariot custome*. For *hariot service* is after the death of tenent in fee-simple. The new Expounder of the Law termes saith, that *hariot service* (in some mans opinion) is often expressed in a mans graunt or deed, that hee holdeth by such service to pay *hariot* at the time of his death, that holderth in fee simple. *Hariot custome* is, where *hariots* have bin payed time out of mind by custome. And this may be after the death of the tenent for life. See *Plowden. fol. 95. b. 69. a. b.* *Bracton* saith, that *heriotum*, est *quasi Relevium. lib. 2. cap. 36.* See *Reliefe*. But *Britton. cap. 69.* saith, that *heriot* is a reward made by the death of a tenent, to any Lord, of the best beast found in the possession of the tenent deceased, or of some other according to the ordinance or assignement of the party deceased, to the use of his Lord: which reward toucheth not the Lord at all, nor the heire, nor his inheritance, neither hath any comparision to a Reliefe: for it proceedeth rather of grace or good-

good will then of right, and rather from villeins then free men. See *Dyer*, fol. 199. nu. 58. to the same effect. This in Scotland is called *Herrezelda*, compounded of (*herr*. i. *dominus*, *herus*) and (*zeild*. i. *gift*) *Skene de verbo*. signific. verbo *Herrezelda*.

Hart, is a Stagge of five yeares old compleat, *Manwood parte 2. of his Forest lawes*, cap. 4. num. 5. which hee hath out of *Budens de philologia*. li. 2. And if the King or Queene doe hunt him, and hee escape away alive, then after ward hee is called a Hart royall. And if the Beast by the Kings or Queenes hunting be chased out of the Forest, and so escape; Proclamation is commonly made in the places there about, that in regard of the pastime, that the Beast hath shewed to the King or Queene, none shall hurt him, or hinder him from returning to the Forest; and then is hee a Hart royall proclaimed. *Idem. eodem.*

Hauberk, commeth of the French (*Haubert*. i. *lorica*) whereupon, hee that holdeth land in France, by finding a Coate or Shirt of Maile, and to be ready with it, when hee shall be called, is said to have *Hauberticum feudum*; whereof *Hotoman* writeth thus: *Hauberticum feudum gallicâ lingua vulgè dicitur pro (loricatum)* i. *datum vasallo eo conditi-*

*one, ut ad editum loricaus sive caphraetus præsto sit. Nam ut lorica latinis propriè & minus asitate est tegmen de loro factum, quo majores in bello utebantur, quemadmodum Servius Honoratus scribit in libro Æneidum 11. frequentissime autem pro anea armatura integra usurpatur: sic apud Gallos Haubert propriè lorica annulis contextam significat, quam vulgus Coste de maille appellat. Hæc Hot. in verbis feudal. verbo Hauberticum feudum. Hauberk with our Ancesters seemeth to signifie, as in France, a Shirt or Coat of Maile, and so it seemeth to be used, anno 13. Ed. pri. stat. 3. ca. 6. Though in these daies the word is otherwise written, as (*Halbert*) and signifieth a weapon well enough knowne.*

Haward, aliàs *Hayward*, seemeth to be compounded of two French words (*Hay*. i. *Sepes*) and (*Garde*. i. *Custodia*.) It signifieth with us, one that keepeth the common Herd of the towne: and the reason may be, because one part of his office is to looke that they neither breake, nor crop the hedges of inclosed grounds. It may likewise come from the German (*herd*. i. *armentum*) and (*bewarren*. i. *custodire*.) Hee is a sworne Officer in the Lords Court: and the forme of his oath you may see in *Kitchin*, fol. 46.

Hawkers, be certaine deceitfull fellowes, that goe from place to place, buying and selling, Brasse, Pewter, and other merchandise, that ought to be uttered in open Market. The appellation seemeth to grow from their uncertaine wandering, like those that with Hawkes seeke their Game, where they can find it. You find the word, *anno 25. H. 8. cap. 6. & anno 33. ejusdem, cap. quarto.*

Headborow, is compounded of two words (*Heofod. i. caput.*) and (*Bor-he. i. pignus*) It signifieth him, that is chief of the frankpledge: and him that had the principall government of them within his owne pledge. And as he was called *Headborow*, so was he also called *Buromhead, Bursbolder, Thirdborow, Tithing man, Chiefe pledge, or Borowelder*, according to the diversity of speech in divers places. Of this see *M. Lamberd* in his explication of Saxon words, *verbo Centuria*: and in his treatise of Constables; and *Smith de Repub. Anglo. lib. 2. cap. 22.* It now signifieth Constable. See *Constable*.

Healsfang, is compounded of two Saxon words (*Hals. i. collum*) and (*fang. i. capere, captivare.*) See *Pyloric*.

Heire (*Heres*) though, for the word, it be borrowed of the Latine; yet, it hath not altogether

the same signification with us, that it hath with the Civilians, for whereas they call him (*heredem*) *qui ex testamento succedit in universum jus testatoris*: the common Lawyers call him heire, that succeedeth by right of blood, in any mans lands or tenements in fee, for there is nothing passeth with us *jure hereditatis*, but onely fee. Moveables, or chatels immoveable, are given by testament, to whom the Testator listeth, or else are at the disposition of the Ordinarie, to be distributed as hee in conscience thinketh meet, *Glossa in Provinciali constitut. Ita quorundam. De testamentis. verbo. Ab intestato.* And whether a man enjoy moveable goods and chatels, by will, or the discretion of the Ordinarie, hee is not with us called an Heire: but onely hee that succeedeth either by testament, or right of blood in fee. *Cassanau in consuetud. Burg. pag. 909.* hath a distinction of *heres*, which in some sort well accordeth with our law: For hee saith, there is *heres sanguinis, & hereditatis*. And a man may be *heres sanguinis* with us, that is, heire apparent to his Father, or other Ancestor: and yet may upon displeasure, or meere will be defeated of his inheritance, or at the least, the greatest part thereof.

Heyre loome, seemeth to be com-

compounded of (*heire*) and (*loome*) that is, a frame, namely, to weave in. The word by time is drawne to a more generall signification, then at the first it did beare, comprehending all Implements of houthold, as namely, tables, presses, cupbords, bedsteads, wainscots, and such like, which by the custome of some Countries, having belonged to a house certaine descents, are never inventaried after the decease of the owner, as chatels, but accrue to the heire with the house it selfe. This word is twice Metaphorically used in that divine speech, made by that most worthy and compleat noble man, the Earle of *Northampton*, against that hellish, ugly, and damnable Treason of Gun-powder, plotted to consume the most vertuous King that ever raigned in Europe, together with his gracious Queene, and precious posteritie, as also the three Honorable estates of this renowned Kingdome.

Hack, is the name of an Engine, to take Fish in the River of *Ouse* by *Torke*, anno 23. H. 8. cap. 18.

Heinsfare, aliàs, *hinesfare*, (*discessio famuli à domino*) the word is compounded of (*hine*) a servant, and (*fare*) an old English word, signifying a passage.

Henchman, or *heinsman*, is a

German word, signifying (*domesticum*, aut *unum de familia*.) It is used with us, for one that runneth on foot attending upon a man of honour or worship, anno 3. Ed. 4. cap. 5. anno 24. Henric. 8. cap. 13.

Hengwrite, significat quetantiam misericordia de latrone suspenso absque consideratione. *Fleta lib. 1. cap. 47.* See *Hankwit*.

Herald, (*heraldus*) is borrowed by us of the French (*herault*) and in *M. Verstegans* judgement proceedeth originally from two Dutch words (*here. i. exercitus*) and (*healt. i. pugil magnanimus*;) as if hee should be called (The Champion of the Armie) having by especiall office, to challenge unto Battell or Combat. With us it signifieth an officer at Armes, whose function is to denounce War, to proclaime Peace, or otherwise to be employed by the King in Martiall Messages, or other businesse. The Romanes called them plurally (*Feciales*.) *M. Stow* in his *Annals* deriveth them from *heroes*, pag. 12. which hee hath from other that writ of that subject, whose conjecture I leave to the Reader. Their office with us, is described by *Polydore lib. 19.* in this sort, speaking of the Knights of the Garter, hee saith: *Habent insuper Apparitores ministros, quos heraldos dicunt: quorum praefectus armorum Rex vocatur;*

tatur: his belli & pacis nuncii. Ducibus, Comitibusq; à Rege factis insignia aptant, ac eorum funera curant. Hee might have added farther, that they be the Iudges and examiners of Gentlemens armes, that they martiall all the solemnities at the Coronations of Princes, Manage combats, and such like. There is also one and the same use of them with us, and with the French nations, whence wee have their name. And what their office is with them, see *Lupanus lib. prim. de Magist. Francorum. ca. Heraldii.* There be divers of them with us: whereof three being the chiefe, are called Kings at armes. And of them Garter is the principall, instituted and created by Henry the fifth. *Stowes annals. pag. 584.* whose office is to attend the Knights of the Garter at their solemnities, and to Martiall the solemnities of the Funerals of all the greater Nobilitie, as of Princes, Dukes, Marquesses, Earles, Vicounts, and Barons, yet I find in *Plowden casu Reniger, & Fogassa*, that Edward the fourth granted the office of the King of *Heralds*, to one Garter *cum feudis & proficiis ab antiquo, &c. fol. 12. b.* The next is *Clarentius*, ordained by Edward the fourth, for hee attaining the Dukedome of *Clarence*, by the death of George his Brother, whom hee beheaded for

aspiring to the Crowne, made the *Herald*, which properly belonged to the Duke of *Clarence*, a King at armes, and called him *Clarentius*. His proper office is, to martiall and dispose the Funerals of all the lesser Nobility, as Knights, and Esquires, through the Realme of the South side of *Trent*. The third is *Norroy*, or *Northroy*, whose office is the same on the North side of *Trent*, that *Clarentius* hath on this side, as may well appeare by his name, signifying the Northerne King, or King of the North parts. Beside these, there be sixe other properly called *Heralds* according to their originall, as they were created to attend *Dukes, &c.* in martiall executions: *viz. York, Lancaster, Somerset, Richemond, Chester, Windlesour.* Lastly, there be foure other called *Marshalls* or *Pursevants* at armes, reckoned after a sort, in the number of *Heralds*, and doe commonly succeed in the place of the *Heralds* as they dye, or be preferred: and those be *Blew Mantle, Rougecrosse, Rouge dragon, and Percellis.* The (*Feciales*) among the Romanes were Priests, Nam *Numa Pompilius divini cultus institutionem in octo partes divisit, & ita etiam sacerdotum octo ordines constituit, &c. Septimam partem sacra constitutionis collegio eorum adiecit, qui Feciales vocantur. Erant autem ex optimis*

optimis domibus viri electi, per omne ipsi vite tempus sacrati, quorum partes in eo versabantur, ut fidei publice inter populos praessent: neq; instum aliquod bellum fore censebatur: nisi id per Feciales esset indictum. Qui ut Festus ait, a faciendo quod belli pacisq; facienda apud eos jus esset, Feciales dicti sunt. Corasius miscel. juris civi. lib. 1. ca. 10. num. 12.

Herbage (herbagium) is a french word, and signifieth in our common Law, the fruit of the earth provided by nature for the bite or mouth of the cattell. But it is most commonly used for a liberty that a man hath to feed his cattell in another mans ground, as in the Forest, &c. *Cromptons Jurisd. fol. 197.*

Herbenger, commeth of the French, (*heberger*) or (*esberger*) (*hesberger*) .i. *hospitio excipere*. It signifieth with us, an Officer of the Princes Court, that allotteth the Noble men, and those of the household their lodgings. It signifieth also in *Kitchin*, an Inkeeper *fol. 176.*

Hereditaments (hereditamenta) seeme to signifie all such things immoveable, bee they corporeall or incorporeall, as a man may have to himselfe and his heires, by way of inheritance. *vid. anno 32. H. 8. cap. 2.* or not being otherwise bequeathed, doe naturally and of course descend to

him which is our next heire of blood, and fall not within the compasse of an executor, or administrator, as chatels doe.

Heriot. See Hariot.

Hide of land (Hida terra) Saxonicè (Hidelandes) is a certaine measure or quantity of land, by some mens opinion, that may be plowed with one plow in a yeare: as the Author of the new *Termes* saith, *verbo Hidage*, by other men, it is an hundred acres. By *Beda* (who calleth it *familiā*) it is as much as will maintaine a family. *Crompton in his Jurisdiction, fol. 220.* saith, that it consisteth of an hundred acres: every acre in length 40, perches, and in breadth foure perches, every perch 16. foote and a halfe, and againe. *fol. 222.* A hide of land containeth an hundred acres, and eight hides or eight hundred acres, containe a Knights fee. Of this reade more in *Master Lamberds Explication of Saxon words, verbo Hyda terra.* See *Carue.*

Hide and gaine. *Old. nat. br. fol. 71. Coke, lib. 4 Terringhams case,* signifieth carable land. See *Gainage.*

Hidage (Hidagium) is an extraordinary tax, to bee paid for every hide of land, *Bracton lib. 2. c. 6.* writeth thus of it: *Sunt etiam quadam communes praestationes, quae servitia non dicuntur, nec de consuetudine*

*indine veniunt nisi cum necessitas inter-
veniret, vel cum Rex venerit :
sicut sunt Hidagia, Coragia, et Car-
vagia : & alia plura de necessitate
et ex consensu communi totius Reg-
ni introducta, & quæ ad Dominum
feudi non pertinent, &c.* of this
reade the new Expounder of
law termes, who saith that hi-
dage is to bee quit, if the King
shall taxe all the lands by hides,
and yet also graunteth it to bee
the taxe it selfe, saying that
it was wont to bee an usuall
kind of taxing as well for provi-
sion of armour, as payments of
money.

Hinesfare. See *Heinsfare.*

Hidel. 1. H. 7. cap. 6. seemeth to
signifie a place of protection, as
a Sanctuarie.

Hierlome. See *Heirlome.*

Hine, seemeth to bee used for a
Servant at husbandry and the
master hine a servant that over-
seeth the rest, anno 12. R. 2. ca.
quarto.

Hoblers (*Hobellarii*) are cer-
taine men, that by their tenure
are tyed to maintaine a litle
light nagge, for the certifying of
any invasion made by enemies,
or such like perill toward the Sea
side, as *Porchmouth, &c.* of these
you shall reade, anno 18. Ed. 3.
stat. 2. cap. 7. & anno 25. ejusdem.
stat. 5. ca. 8.

Hoghenhine, is hee that com-
meth guest-wise to a house, and

lieth there the third night. After
which time hee is accounted of
his familie in whose house he ly-
eth : and if hee offend the Kings
peace, his host must bee answer-
able for him. *Bracton. lib. 3. tract.
2. cap. 10.* In the lawes of King
Edward set forth by *M. Lam-
berd*, hee is called *agenhine*, where
you may reade more of this
matter.

Hirbe (*Hirba*) is a petit haven
to land wares out of vessels or
boats : new booke of Entries.
fol. 3. colum 3.

Hogshead, is a measure of wine
or oyle containing the fourth part
of a tunne ; that is 63. gallons,
anno 1. R. 3. ca. 13.

Hoistings. See *Hustings.*

Homage (*Homagium*) is a
french word, signifying (*sicem
clientularem.*) For in the origi-
nall grants of land and tenements
by way of fee, the Lord did not
onely tye his tenents or feed
men to certaine services : but also
tooke a submission with promise
and oath, to bee true and loyall
to him, as their Lord and Benefa-
ctor. This submission was and is
called homage : the forme wher-
of you have in the second statute,
anno 17. Ed. 2. in these words :
when a free man shall doe ho-
mage to his Lord, of whow hee
holdeth in chiefe : hee shall hold
his hands together betweene
the hands of his Lord, and shall
fay

say thus : I become your man from this day forth for life, for member, and for wordly honour, and shall owe you my faith for the land I hold of you: saving the faith, that I doe owe unto our Sovereigne Lord the King, and to mine other Lords. And in this manner the Lord of the fee, for which homage is due, taketh homage of every tenant, as he cometh to the land or fee. *Glanvile. lib. 9 cap. 1.* except they be women, who performe not homage but by their husbands, (yet see *Fitzherbert*, that saith the contrary in his *natura br. fol. 157. F.*) Reade *Glanvile* more at large in the said first Chapter, with the second, third and fourth; The reason of this *M. Skene* giveth *de verbo, significatione, verbo Homagium, viz.* because Homage especially concerneth service in warre, Hee saith also, that consecrated Bishops, doe no homage, but onely fidelity : the reason may be all one. And yet I find in the *Register. orig. fol. 296. a.* that a woman taking livery of lands holden by Knights service, must doe homage, but not being joyntly infeoffed, for then shee doth onely fealty. And see *Glanvile* in the end of the first chapter of his ninth booke touching Bishops consecrated, whom hee denieth to performe homage to the King for their Baronie, but

onely fealty. *Fulbeck* reconcileth this, *fol. 20. a.* in these words. By our law a religious man may doe homage, but may not say to his Lord. *Ego devenio homo vester*, because hee hath professed himselfe to be onely Gods man, but hee may say, I doe unto you homage, and to you shall be faithfull and loyall. See of this *Britton. cap. 68.* Homage, is either new with the fee, or auncestrell : that is, where a man and his anncestors, time out of mind, have held their lands by homage to their Lord, whereby the Lord is tied to warrant the land unto his tenant. *New Termes of the Law.* This homage is used in other countries as well as ours, and was wont to be called *Homini-um*. See *Hotom. de verbis feudilibus, verbo. Homo.* *Skene* divideth it into *liegium & nonliegium, de verb. signif. verbo Homage* : for the which see *Leige*, and *Hotoman, disputatione de feudis tertia.* Homage is sometime used for the Iurie in the Courte Baron, *Smith de Repub. Anglo. lib. 2. cap. 27.* The reason is, because it consisteth most commonly of such, as owe homage unto the Lord of the fee. And these of the Feudists are called *parcs curia, sive curtis, sive domus, sic dicuntur enim conuassalli sive compares, qui ab eodem patrono feudum receperunt, vel qui in eodem territorio feudum*

habent. Hotoman. Of this homage you may reade in the 29. c. of the *Grand Custumary of Normandie*, where you shall understand of other sorts of homage used by them, and strange unto us, wherunto joyne *Hotoman. disputat. de feudis*, in divers places, and namely *columna 860. G. his verbis. Deinceps de nota hominii & feudalitiae subjectionis videamus. Omnium quidem video esse commune, ut dexteris tanquam in foederibus jungerent: plerumq; etiam ut dextervis aversis, osculum praberent, interdum, ut ambas manus junctas patrono contrectandas praberent: supplicum & dedititiorum nomine, qui velatas manus porrigebant: and pag. 861. his verbis. Multis Galliae atq; etiam Anglia moribus constitutum est (Quod ex Anglico Littletonio intelleximus) ut hominum servili & supplici veneratione, ac plane tanquam a dedititiis praestetur. Nam vasallus distinctus, nudo capite, ad pedes sedentis patroni projectus, ambas manus junctas porrigit: quas dum Dominus suis manibus amplectitur, haec verba pronunciat. Here, venio in tuum hominum & fidem, & homo tuus sis ore & manibus; tibi quoque juro ac spondeo fidelem me tibi futurum eorum feudorum nomine, quae tuo beneficio accepi, &c.* Wherunto you may adde him, *column. 819. G. 822. F. & 857. B. & D. & F.* Of homage in Scotland, reade *M. Skene de verb. sign.*

verbo Homagium: to whom you may also joyne a plentifull discourse in *speculo Durandi*, commonly called (*speculator*) among the Civilians, *titulo De Feudis.*

Homagio respectuando, is a writ to the Escheatour commanding him to deliver seisin of lands to the heire that is at full age, notwithstanding his homage not done, which ought to be performed before the heire have livery of his lands, except there fall out some reasonable cause to hinder it, *Fitzh. nat. br. fol. 269.*

Hemine eligendo ad custodiendam peciam sigilli pro Mercatoribus editi, is a writ directed to a Corporation, for the choice of a new man to keepe the one part of the Seale, appointed for statutes Merchant, when the other is dead, according to the statute of *Acton Burnel, Regist. orig. fol. 178. a.*

Homine replegiando, is a writ for the bayle of a man out of prison: which, in what cases it lieth, and what not, see *Fitzh. nat. br. fol. 66.* See also the *Register orig. fol. 77.* See the new booke of Entries, *verbo. Homine replegiando.*

Homine capto in Withernamium, is a writ to take him, that hath taken any Bond man or woman, and led him or her out of the Countie, so that hee or shee cannot

not to be replevied according to law, *Register orig. fol. 79. a.* See *Withernam.*

Homicide (*homicidium*) is the slaying of a man: and it is divided into voluntarie, or casuall: homicide voluntarie is that, which is deliberated, and committed of a set mind, and purpose to kill: homicide voluntarie, is either with precedent malice, or without. The former is murder, and is the felonious killing through malice prepensed of any person living in this Realme under the Kings protection, *West. parte 2. symbol. tit. Inditements. Sect. 37. &c. usque ad 51.* where you may see divers sub-divisions of this matter. See also *Glanvile lib. 14. cap. 3. Bract. li. 3. tra. 2. ca. 4. 15. & 17. Brit. c. 5. 6. 7.* See *Murder. Mans slaughter and Chance medly.*

Homesoken, alias *Hamsoken* (*Hamsoca*) is compounded of (*Ham. i. habitatio*) and (*Soken. i. querere*) It is by *Bracton, lib. 3. tract. 2. c. 23.* thus defined: *Homesoken dicitur invasio domus contra pacem Domini Regis.* It appeareth by *Rastall* in the title: Exposition of words: that in ancient times some men had an immunitie to doe this: for hee defineth *Homesoken* to be an immunitie from amercement from entring into houses violently, and without license, which thing seemeth so unreasonable, that me thinketh

hee should be deceived in that his exposition. I would rather think it should be a libertie, or power granted by the King to some common person, for the cognizance or punishment of such a transgression, for so I have seene it interpreted in an old note that I have given mee by a friend, which hee had of an expert man toward the Exchequer, but of what authority I know not. See *Hamsoken.*

Hondhabend, is compounded of two Saxon words (*Hond. i. hand*, and *habend. i. having*) and signifieth a circumstance of manifest theft, when one is deprehended with the thing stollen in his hand, *Bracton, lib. 3. tract. 2. cap. 31, & 54.* who also use the (*handberend*) for the same, *codem cap. 8.*

Honour (*honor*) is, beside the generall signification, used specially for the more noble sort of Seigneories: whereof other inferior Lordships, or Manors doe depend by performance of customs and services, some or other, to those that are Lords of them. And I have reason to think that none are honours originally, but such as are belonging to the King. Howbeit they may afterward be bestowed in fee upon other Nobles. The manner of creating these honours may in part be gathered out of the statutes

anno 31. H. 8. cap. 5. where Hampton Court is made an honour; and anno 33. *ejusdem*. cap. 37. & 38. whereby *Ampill* and *Grafton* bee likewise made honours, and anno 37. *ejusdem*. cap. 18. whereby the King hath power given by his Letters patents, to erect foure severall honours. Of *Westminster*, of *Kingston upon Hull*, *Saint Osiches in Essex*, and *Dodington in Barkshire*. This word is also used in the selfe same signification in other nations. See *ca. licet causam. extra de probationibus*: and *Minsinger* upon it, *nu. 4*. In reading I have observed thus many honours in England: The honour of *Aquila*. *Camden. Britan. pag. 231*. of *Clare. pag. 351*. of *Lancaster. pag. 581*. of *Tickhill. pag. 531*. of *Wallingford*, *Nottingham*, *Boloine*. *Magna charta. cap. 31*. of *West Greenewish, Camd. pag. 239*. of *Bedford; pupil. oculi. parte 5. cap. 22*. of *Barhimsted. Broke, titulo Tenure. nu. 16*. of *Hwittam. Camd. pag. 333*. of *Plimpton. Cromptons Jurisd. fol. 115*. of *Crevecure*, and *Hagenet Fobert. anno 32. H. 8. cap. 48*. of *East Greenewish*. of *Windsour in Barkshire*, and of *Bealew in Essex. anno 37. H. 8. cap. 8* of *Peverell* in the County of *Lincoln*, *Register originall. fol. 1*.

Horngeld, is compounded of *Horn* and *Gildan* or *Gelder*. i. *Sol-*

vere. It signifieth a taxe within the Forest to be paid for horned beasts, *Cromptons Jurisd. fol. 197*. And to be free thereof, is a privilege granted by the King unto such as hee thinketh good, *Idem, ibidem*; and *Rastall* in his exposition of words.

Hors de son fee, is an exception to avoid an action brought for rent, issuing out of certaine land by him that pretendeth to be the Lord, or for some customes and services: for if hee can justifie that the land is without the compasse of his fee, the action falleth. *v. Brooke, hoc titulo*.

Hospitallers, (*Hospitalarii*) were certaine Knights of an order, so called, because they had the care of Hospitals, wherein Pilgrims were received. To these Pope *Clement* the fift transferred the *Templers*, which order, by a Councell held at *Vienna* in France, hee suppressed, for their many and great offences, as he pretended. These Hospitallers be now the Knights of *Saint John of Malta*. *Cassan. gloria mundi. parte 9. considerat. 5*. This constitution was also obeyed in *Edward* the seconds time here in England, and confirmed by Parliament. *Tho. Walsingham, in historia. Ed. 2. Stowes annals. ibidem*. These are mentioned anno 13. *Ed. 1. cap. 43*. & anno 9. *H. 3. cap. 37*.

Hostelers, (*Hostellarius*) cometh of the trench (*Hosteler*, i. *Hostes*) and signifieth with us, those that other wise we call Inkeepers, anno 9. Ed. 3. stat. 2. ca. 11.

Hotchepot, (*in partem positio*) is a word that commeth out of the Low countries, where (*Hutspot*) signifieth flesh cut into prety pieces, and sodden with herbes or roots, not unlike that which the Romanes called *farraginem*. *Festus*. *Litleton* saith that litterally it signifieth a pudding mixed of divers ingredients: but metaphorically a commixtion, or putting together of lands, for the equall division of them being so put together. Examples you have divers in him, fol. 55. and see *Briton* fol. 119. There is in the Civill law *Collatio bonorum* answerable unto it, whereby if a childe advanced by the father in his life time, doe after his fathers decease, challenge a childs part with the rest, hee must cast in all that formerly hee had received, and then take out an equall share with the others. *De collatio bonorum*, lib. 37. titulo 6.

Houfebote, is compounded of *Houfe*, and *Bote*, i. *compensatio*. It signifieth Estovers out of the Lords wood to uphold a teneement or house.

Houfrobbling, is the robbing of a man in some part of his house, or his booth, or tent in any faire

or market, and the owner, or his wife, children, or servants being within the same: for this is felony by ann. 23. H. 8. ca. 1. and anno 3. Ed. 6. ca. 9. yea, now it is felony though none bee within the house, an. 39. Eliz. ca. 15. See *Burglary*. See *West. part. 2. sym. tit. Inditeiments*, sect. 67.

Hudegeld, significat quietanti-
am transgressionis illata in servum
transgredientem. *Fleta li. 1. ca. 47.*
Quere whether it should not be
Hindegeld.

Hue and Crie, (*Hutesum & Clamor*) come of two French words: (*Huier*) and (*Crier*) both signifying to shout or crie aloud. *M. Manwood*, parte 2^d of his Forest lawes, ca. 19. num. 11. saith, that *Hew* is latine, meaning belike the *Interjection*: but under reformation, I thinke he is deceived; this signifieth a pursuite of one having committed felonie by the high way, for if the partie robbed, or any in the company of one murdered or robbed, come to the Constable of the next towne, and will him to raise *Hiew* and *Crie*, or to make pursuite after the offendour, describing the partie, and shewing as neere as he can, which way he is gone: the Constable ought forthwith to call upon the Parish for ayde in seeking the felon: and if hee bee not found there, then to give the next Constable

warning, and hee the next, untill the offendour bee apprehended, or at the least, untill hee be thus persued to the Sea side. Of this reade *Bracton, lib. 3. tract. 2. cap. 5. Smith de Repub. Anglo. lib. 2. cap. 20.* and the statute anno 13. Ed. 1. statute of *Winchest. c. 3. & a. 28. Ed. 3. ca. 11. & anno 27. El. c. 13.* The Normans had such a persuit with a Crie after offenders as this is, which they called *Harro*: whereof you may reade the *Grand Custumarie, cap. 54.* Some call it *Harol*: the reason whereof they give to be this, that there was a *Duke of Normandy*, called *Rol*, a man of great justice and severity against grievous offenders: and that thereupon, when they follow any in this persuit, they cry *Ha-Rol*, as if they should say, *Ab Rol* where art thou that wert wont to redresse this, or what wouldst thou doe against these wretches, if thou now wert living? But in truth I think it commeth from *Harier*: i. *flagitare, inquietare, urgere.* Hue is used alone, anno 4. Ed. pri. Stat. 2. This the Scots call *Huesum* and *M. Skene de verb. signif. verb. Huesum*, saith, that it commeth of the French *Oyes*. i. *Andite*: making one etymologie of this and the crie used before a Proclamation. The maner of their Hue and crie, as hee there describeth it, is that if a robbery be done, a horne

is blowne, and an out-crie made: after which, if the partie flie away, and not yield himselfe to the *Kings Bailiffe*, hee may be lawfully slaine, and hanged up upon the next gallows. Of this Hue and crie, see *Cromptons In-flice of peace, fol. 160. b.*

Huissers. See *Ushers.*

Hundred (Hundredum) is a part of a Shire, so called originally, because it contained ten tithings called in Latine *'Decennas.* These were first ordained by king *Alfred* the 29. King of the *West Saxons.* *Stows annals* pag 105. of these thus speaketh *M. Lamb.* in his explic. of Saxon words, *verbo. Centuria: Aluredus rex, ubi cum Guthruno Daco foedus inierat, prudentissimum illud olim à Ietrone Moysi datum secentus consilium, Angliam primus in satrapias, Centurias, & Decurias, partitus est. Satrapiam, shire à shyan (quod partiri significat) nominavit: Centuriam, Hundred: & Decuriam, Tothing sive Tienmantale. i. Decemvirale collegium appellavit: atq; iisdem nominibus vel hodie vocantur, &c.* And againe afterward: *Decrevit tum porro Aluredus libera ut condicionis quisq; in Centuriâ ascriberetur aliquam, atq; in Decemvirale aliquod coniceretur collegium. De minoribus negotiis Decuriones ut judicaret: ac si quæ esset res difficilior, ad Centuriâ deferrent: difficilimas deniq; & maximi momenti*
lites,

lites, Senator & prapositus in frequenti illo ex omni satrapia conventu componerent. Modus autem iudicandi quis fuerit, Ethelredus Rex, legum, quas frequenti apud Vana-tingum senatu sancivit, capite 4. hiis fere verbis exponit. In singulis centuriis comitia sunt, atq; liberae conditionis viri duodeni, etate superiores, una cum prapposito, sacra tenentes juranto, se adeo virum aliquem innocentem haud damnaturos fontemve absoluturos. This forme of dividing Counties into Hundreds for better Governement, howsoever it is attributed to King *Alfred* here with us: yet hee had it from Germanie, whence hee and his came hither. For there *Centa* or *Centena* is a jurisdiction over a hundred towns, and containeth the punishment of Capitall crimes. *Andreas Kitchin, in his tractat, de sublimi & regio territorii jure. cap. 4. pag. 123.* where hee also sheweth out of *Tacitus, de situ & moribus Germa.* that this division was usuall amongst the Germans before his daies. By this you understand the originall and old use of Hundreds, which hold still in name, and remaine in some sort of combination, for their severall services in divers respects, but their jurisdiction is abolished, and growne to the County Court, some few excepted, which have beene by pri-

viledge annexed to the Crowne, or granted unto some great subject, and so remaine still in the nature of a Franchise. And this hath beene ever sithence the statute anno 14. Ed 3. stat. 1. ca. 9. whereby these Hundred Courts formerly fermed out by the Sheriffe to other men, were reduced all, or the most part, to the County Court, and so have and doe remaine at this present. So that where you reade now of any Hundred Courts, you must know, that they be severall franchises, wherein the Sheriffe hath not to deale by his ordinary authority, except they of the Hundred refuse to doe their office. See *West, parte 1. symbol. lib. 2. Sect. 288.* See *Turn.* The new expounder of Law Termes saith, that the Latine *Hundredum* is sometime used for an immunitie or priviledge, whereby a man is quit of mony or customes due to the Governour, or Hundreders.

Hundreders (Hundredarii) be men empaneled, or fit to bee empaneled of a Turie upon any Controversie, dwelling within the Hundred where the land lieth, which is in question, *Cromptons Jurisd. fol. 217. & anno 35. Henrici 8. ca. 6.* It signifieth also him that hath the jurisdiction of a Hundred, and holdeth the Hundred Court, anno 13. Ed. pri.

ca 38. anno 9. Ed. 2. stat. 2. & anno 2. Ed. 3. ca. 4. and sometime is used for the Bailiffe of an hundred. Horn in his mirrour of Iustices. lib. 1. ca. del office del coroner.

Hundred laghe, signifieth the Hundred Court, from the which all the officers of the Kings Forrest were freed by the Charter of *Cannus*, ca. 9. *Manwood*, parte 1. pag. 2.

Huors. See *Conders*.

Huseans, commeth of the French (*housseaux*. i. ocrea) a boot. It is used in the statute anno 4. Ed. 4. cap. 7.

Hustings (*Hustingum*) may seme to come from the French (*Haulser*. i. tollere, attollere suberigere) for it signifieth the principal and highest Court in London, anno 11. H. 7. ca. 21. & *Fitzh. nat. br. fol. 23*. See anno 9. Ed. pri. ca. unico. Other Cities and Townes also have had a Court of the same name, as *Winchester*, *Lincolne*, *Torke*, and *Sheppey*, and others, where the Barons or Citizens have a Record of such things as are determinable before them. *Fleta*, libro 2. cap. 55.

Husfastene, is hee that holdeth house and land, *Bract. li. 3. tra. 2. ca. 10*. his words be theie: *Et in frācoplegio esse debet omnis, qui terram tenet & domum, qui dicuntur Husfastene, et etiam alii qui illis deserviunt, qui dicuntur Folgheres, &c.*

Arrock, anno 1. R. 3. ca. 8. is a kind of cork so called.

Idenitate nominis, is a writ that lyeth for him who is upon a *Capias* or *Exigent*, taken and committed to prison for another man of the same name: wherof see the forme and farther use, in *Fitzh. nat. br. fol. 267*. See the *Register origin. fol. 194*.

Idiot, and hee that afterward becometh of insane memory, differeth in divers cases, *Coke, fol. 154. b. lib. 4*. See here following *Idiota inquirenda*.

Idiota inquirenda vel examinanda, is a writ that is directed to the Excheatour or the Sheriffe of any County, where the King hath understanding that there is an *Idiot*, naturally borne so weake of understanding, that hee cannot governe or manage his inheritance, to call before him the party suspected of Idiocie, and examine him: And also to inquire by the oathes of 12 men whether he be sufficiently witted to dispose of his own lands with discretion or not, and to certifie accordingly into the Chancerie: For the King hath the protection of his Subjects, and by his prerogative the government of their lands and substance, that are naturally defe-

defective in their owne discretion : *statut. de prerogativa Regis edum anno 17. Ed. 2. ca. 8.* whereof reade *Stawns. prerog. ca. 9.* and of this writ, reade *Fitzh. nat. br. fol. 232.* Seethe *Regist. origin. fol. 267.*

Ietzon. See *Flotzon.*

Ieofsaille, is compounded of three French words, *l'ay faille.* i. *ego lapsus sum* : and signifieth in our common law, an over-sight in pleading, touching the which you have a statute, *anno 32. H. 8. ca. 30.* whereby it is enacted, that if the Iurie have once passed upon the issue, though afterward there be found a *Ieofsail* in the pleading, yet judgement shall likewise be given according to the verdict of the Iury. See *Brooke. tit. Repleder.* The author of the new Termes of law saith, that a *Ieofsaille* is when the parties to any Sute, have in pleading proceeded so farre, that they have joyned issue, which shall be tried, or is tried by a Iury or inquest : and this pleading or issue is so badly pleaded or joyned, that it will be errour if they proceed. Then some of the said parties may by their Councell shew it to the Court, as well after verdict given, and before judgement, as before the Iury be charged : the shewing of which defects before the Iury charged, was often when the Iury came into the Court to try the issue,

then the Councell which will shew it, shall say : This Inquest you ought not to take : and if it be after verdict, then he may say : To Iudgement you ought not to goe : and because of this many delays grew in Sutes, divers statutes are made to redresse them : viz. *32. H. 8. ca. 30.* and others in *Q. Elizabeths daies*, and yet the fault little amended.

Ignoramus, is a word properly used by the grand Enquest empaneled in the inquisition of causes criminall and publicke : and written upon the Bill, whereby any crime is offered to their consideration, when as they mislike their evidence, as defective, or too weake to make good the presentment. The effect of which word so written is, that all farther inquiry upon that party for that fault, is thereby stopped, and hee delivered without farther answer. It hath a resemblance with that custome of the ancient Romans : where the Iudges, when they absolved a person accused, did write *A.* upon a little table provided for that purpose. i. *Ab solvimus* : if they judged him guilty, they writ *Cid est. Condemnamus* : if they found the cause difficult and doubtfull, they writ *N. L. id est. Non liquet.* *Asconius Pedianus in oratio. pro Milone. Alexander ab Alexandro. Genial. dierum. lib. 3. cap. 14.*

Ikenild street, is one of the foure famous wayes that the Romanes made in England, taking the beginning *ab Icenis*, which were they that inhabited *Northf. Southf. and Cambridg shire, Cam. Britan. fol. 343.* See *Watling street*.

Impar lance (*interlocutio vel interloquela*) is a petition made in Court upon the Count of the Demandant by the Tenent, or Declaration of the Plaintiffe, by the Defendant, whereby hee craveth respite, or any other day to put in his answer. See *Brooke, titulo Continuance.* See *Dies datus*: *Impar lance* seemeth to be generall or speciall: speciall *impar lance* is with this clause *Salvis omnibus privilegiis tam ad jurisdictionem curia, quam breve & narrationem.* *Kitchin, fol. 200.* Then generall in reason must be that, which is made at large without inserting that or the like clause. See *Emper lance*.

Impeachment of Waste (*impetio vasti*) commeth of the French (*empeschement. i. impedimentum*) and signifieth with us, a restraint from committing of waste upon lands or tenements. See *Waste*.

Implements, commeth of the French (*employer. i. insumere in re aliqua*) it signifieth with us, things tending to the necessarie use of any Trade, or furniture of household.

Impoft, is a French word signi-

fying tribute, comming of the verb (*imposer. i. injungere, irrogare.*) It signifieth with us, the taxe received by the Prince for such Merchandise, as are brought into any Haven from other Nations, *anno 31. Elizabeth, cap. 5.* And I thinke it may in some sort be distinguished from custome, because custome is rather that profit, which the Prince maketh of wares shipped out of the land: yet they may be confounded.

Improvement. See *Approve*.

In casu consimili, is a writ. See *Casu consimili*.

In casu proviso, is a writ. See *Casu proviso*.

Incident (*incidens*) signifieth a thing necessarily depending upon another as more principall: For example, a *Court Baron* is so incident to a *Maner*, and a *Court of Piepowders* to a *Faire*, that they cannot be severed by grant: for if a *Maner* or *Faire* be granted, these Courts cannot be referred, *Kitchin, fol. 36.*

Incroche (*incrociare*) See *Encreachements*. *Admirals*, and their *Deputies* doe *incroche* to themselves jurisdictions, &c. *anno 15. Rich. 2. cap. 3.*

Indenture (*indentura*) is a writing comprising some contract betweene two, and being indented in the toppe answerably to another, that likewise

containeth the same contracts : this the Latines called *συγγεγον*, or *συγγεγον*, which among the Civilians, is defined to bee *scriptura inter creditorem & debitorem indentata, in cuius sciscura literis capitalibus hæc dictio συγγεγον*, or plurally *τα συγγεγον* scribitur, and it differeth from *παισιγγεγον*, quia hoc manu unius tantum, puta debitoris scribitur, & penes debitorem relinquitur primum. constituit. de officio archidiaconi. cap. pri. verbo In scriptis. vid. Gothofr. in notis ad l. 27. §. 3. & ad leg. Corn. de fals.

Indicavit, is a Writ or Prohibition that lyeth for a Patron of a Church, whose Clerke is defendant in court Christian, in an action of Tithes commenced by another Clerke, and extending to the fourth part of the Church, or of the Tithes belonging unto it; for in this case, the suite belongeth to the Kings Court, by the Statute *Westm. 2 cap. 5.* wherefore the Patron of the Defendant, being like to be prejudiced in his Church and Advowzen, if the Plaintiff obtaine in the court Christian, hath this meanes to remooove it to the Kings Court; the Register originall fol. 35. b. See *Old nat br. fol. 31.* and the *Regist. fol. 35.* and *Britton. cap. 109. fol. 260. A.*

Indictment (*Indictamentum*) see *Indightment*.

Indivisum, is used in the com-

mon Lawe, for that which two hold in common without participation. *Kitchin. fol. 241.* in these words: he houldeth *pro indiviso. &c.*

Indorsment (*indorsamentum*) signifieth in the common law, a condition written upon the other side of an Obligation, *West. parte 2. symbol. Sect. 157.*

Infang, alias *infeng*, significat quietantiam prioris prise ratione convivii, *Pleta lib. 1. cap. 47.*

Infangthef, or *Hinfangthefe*, or *Infangtheof*, is compounded of 3. Saxon words: the preposition (*In*) (*fang* or *fong*) to take or catch) and (*thef*) it signifieth a privilege or libertie granted unto Lords of certain Maners, to judge any thiefe taken within their fee. *Bracton, lib. 3. tract. 2 cap. 8.* In the lawes of King Edward, set out by *M. Lamberd, nu 26.* you have it thus described: *Infangthefe, Iustitia cognoscentis larronis sua est, de homine suo si captus fuerit super terram suam: Illi vero qui non habent has consuetudines, coram iusticia regia rectum faciant in Hundredis, vel in Wapentachiis, vel in Scyris:* The definition of this fee also in *Britton, fol. 90. b.* and *Roger Hoveden, parte poster. suorum animalium. fo. 345. b. & M. Skene de verborum significat. verbo Infangthefe*, who writeth of it at large, reciting diversitie of opinions touching this and

oufangehiefe: Fleta faith that (*infangeheef*) for so hee writeth it, *dicatur latro captus in terra alicujus seifitus aliquo latrocinio de suis propriis hominibus. lib. 1. cap. 47. §. Infangeheefe.*

Information. See *Enditement*: See the *New Termes of Law.*

Informer (informator) in french (*informateur*) is an officer belonging to the Exchequer or Kings Bench, that denounceth or complaineth of those that offend against any penall statute. They are otherwise called promoters, but the men being bashfull of nature, doe blush at this name: these among the Civilians are called *delatores.*

Informatus non sum, is a formall answer of course made by an Attorney, that is commanded by the Court to say what hee thinketh good in the defence of his Client, by the which hee is deemed to leave his Client undefended, and so judgement passeth for the adverse partie. See the new Booke of Entries. *titulo. Non sum informatus.* and Judgement 12.

Ingressu, is a Writ of Entry, that is, whereby a man seeketh entry into Lands or Tenements; it lyeth in many divers cases where in it hath as many diversities of formes. See *Entry*. This Writ is also called in the particular, *præcipe quod reddat*: because those be

formall words in all Writs of entry. The Writs as they lye in divers cases, are these described in the *Old natura brev. Ingressu ad terminum qui præterit, fol. 121. Origin. Regist. fol. 227.* which lyeth where the lands or tenements are let to a man for terme of yeares, and the Tenant houldeth over his terme: *Ingressu dum non fuit compos mentis. fol. 223. original. Regist. fol. 218.* which lyeth where a man selleth Land or Tenement when hee is out of his wits, &c. *Ingressu dum fuit infirmitatem, fol. 123. Register original, fol. 228.* which lyeth where one vnder age selleth his Lands, &c. *Ingressu super descifina in le quitus fol. 125. Register. origin. fol. 229.* which lyeth where a man is disseised and dyeth, for his heire against the disseisour. *Ingressu in per fol. 126. origin. regist. fol. 229. Ingressu sur cui in vita. fol. 128. original Register fol. 239.* both which see in *Entry*: *Ingressu causa matrimonii prælocuti. fol. 130. original. register. fol. 233.* which see *causa matrimonii prælocuti. Ingressu in casu proviso. fol. 132. Regist. origin. fol. 235.* which see *casu proviso. Ingressu cui ante divortium. fol. 130. original. register. fol. 233.* for which see, *cui ante divortium. Ingressu in consimili casu, fol. 233. original Register fol. 236.* for which see *Consimili casu Ingressu sine consensu capituli. fol. 128. original*

ginal register, fol. 230. for which see *Sine assensu capituli. Ingressu ad communem legem.* fol. 132. original register; fo. 234. which lyeth, where the Tenent for terme of life, or of anothers life, Tenent by curtesie, or Tenent in Dower maketh a feofment in fee, and dyeth; hee in the reversion shall have the foresaid writ against whomsoever that is in the land, after such feofment made.

Ingrossing of a fine, is making the Indentures by the Chirographer, and the delivery of them to the party unto whom the cognisance is made, *Fitzh. nat. br. fol. 147. A.*

Ingrosser (ingrossator) commeth of the French *Grossier. i. crassiusculus*, or *Grosier. i. Solidarius venditor*. It signifieth in the common law, one that buyeth corne growing, or dead victuall, to sell again, except Barly for Mault, Oates for Oatemeale, or victuals to retaile, badging by license, and buying of oiles, spices, and victuals, other then fish or salt, *anno 5. Edw. 6. cap. 14. anno 5. Elizab. cap. 14. anno 13. Elizab. cap. 25.* these be *M. Wests* words, *parte 2. symbol. titulo Inditevements. Sect. 64.* Howbeit, this definition rather doth belong to unlawfull ingrossing, then to the word in generall. See *Forstaller*.

Inheritance (hereditas) is a perpetuity in lands or tenements to

a man and his heires. For *Littleton ca. 1. li 1.* hath these words: and it is to be understand, that this word (*inheritance*) is not onely understood, where a man hath inheritance of Lands and Tenements by descent of heritage, but also every fee simple, or fee taile that a man hath by his purchase, may be said inheritance: for that, that his heires may inherit him: Severall inheritance is that, which two or more hold severally, as if two men have land given them, to them and the heires of their two bodies, these have joynt estate during their lives, but their heires have severall inheritance, *Kitchin, fol. 155.* See the new Termes of law, *verbo Enheritance.*

Inhibition (Inhibitio) is a writ to inhibit or forbid a Judge from farther proceeding in the cause depending before him. See *Fitzh. nat. br. fol. 39.* where hee putteth prohibition and inhibition together: inhibition is most commonly a writ issuing out of a higher Court Christian to a lower and inferiour, upon an Appeale, *anno 24. H. 8. cap. 12.* and prohibition out of the Kings Court to a Court Christian, or to an inferiour Temporall Court.

Injunction (injunctio) is an interlocutory decree out of the Chancerie, sometimes to give possession unto the Plaintiff, for want

of apparence in the Defendant, sometime to the Kings ordinary Court, and sometime to the Court Christian, to stay proceeding in a cause upon suggestion made, that the rigour of the law, if it take place is against equitie and conscience in that Case. See *West. parte 2. symb. titulo Proceeding in Chancerie. Sect. 25.*

Inlawgh (Inlagatus) vel homo sub lege) signifieth him that is in some franck pledge, of whom take *Bractons* words, *li. 3. tract. 2. cap. H. nu. 5. Minor verò, & qui infra atatem duodecim annorum fuerit, utlagari non potest nec extra legem poni: quia ante talem atatem non est sub lege aliqua, nec in decenna, non magis quam femina, quæ utlagari non potest quia ipsa non est sub lege. i. Inlawghe anglicè: sc: in franco plegio sive decenna sicut masculus duodecim annorum & ulterius, &c. Inlawghe, significat hominem subiectum lege, Fleta, lib. 1. cap. 47.*

Inlagary (Inlagatio) is a restitution of one outlawed, to the Kings protection, and to the benefit or estate of a subject, *Bracton, lib. 3. tract. 2. ca. 14. nu. 6, 7, 8. Britton, cap. 13.*

Inmates, are those that be admitted to dwell for their money jointly with another man, though in severall roomes of his Mansion house passing in and out by one doore, and not being able

to maintaine themselves, which are inquirall in a Leet, *Kitchin, fol. 45.* where you may reade him at large, who be properly Inmates in intendment of law, and who not.

Imprison, anno 18. Ed. 3. Statu. 4. cap. unico. seemeth to signifie so much as an attempt, comming of the French (*Empris*) which is all one with (*Enterpris*) an enterprife.

Inquirendo, is an authority given to a person or persons, to inquire into something for the Kings advantage; which, in what cases it lyeth, see the *Register originall, fol. 72, 85, 124, 265, 266, 179, 267.*

Inquisition (Inquisitio) is a manner of proceeding in matters criminall, by the office of the Iudge, which *Hostiensis* defineth thus: *Inquisitio nihil aliud est quàm aliqujus criminis manifesti ex bono & equo Iudicis competentis canonice facta investigatio, ca. qualiter de accusatio.* in the *Decretales*: this course wee take here in England by the great Enquest before Iustices in *Eyre*. See *Eyre*; and the places in *Bracton* and *Britton* there noted. *Inquisition* is also with us, used for the King in temporall causes and profits, in which kind it is confounded with Office, *Stawns. prerog. fo. 51. See Office.*

Inrolement (Irrotulatio) is the
Regi-

registring, recording or entring of any lawfull act in the Rolles of the Chancerie, as recognisance acknowledged, or a Statute, or a Fine levied. See *West. parte 2. Symbol. titulo Fines. Sect. 133.*

Infirmul tenuit, is one species of the writ called a *Formdon*. See *Formdon*.

Inakers, be a kind of Thieves in *Ridesdall, anno 9. H. 5. ca. 8.* so called, as it seemeth, because they dwelling within that libertie, did receive in such booties of cattell or other things as the outparters brought in unto them. See *Out parters*.

Interdictio (*Interdictio*) is used in the common law, in the same signification that it hath in the Canon law, where it is thus defined: *interdictio est censura ecclesiastica prohibens administrationem divinarum: c. quod in te: de penitent: & remiss.* in the Decretals: and thus is it used, *anno 24. H. 8. cap. 12.*

Enterpleder. See *Enterpleder*.

Intrusion (*Intrusio*) by *Bracton lib. 4. cap. 2.* is thus defined: *Intrusio est, ubi quis, cui nullum jus competit in re nec scintilla iuris, possessionem vacuum ingreditur, qua nec corpore nec animo possidetur, sicut hereditatem jacentem antequam adita fuerit ab heredem, vel saltem a domino capitali ratione custodia, vel ratione eschaeta si forte heredes non*

*existant, vel si post mortem alicuius per finem factum, vel per modum donationis, ubi successio sibi locum vindicare non possit, vel si post mortem alicuius qui tenuit ad vitam debeat tenementum reverti ad proprietarium, ponat quis se in seisinā antequam tenementum illud veniat ad illis ad quem pertinere deberet ex predictis causis, with whom agreeth Fleta, lib. 4. cap. 30. §. 1. & 2. See Britton cap. 65. to the same effect. See the new booke of Entries, verb. *Entrusion*. See *Entrusion*. See *Disseisin*: the Author of new Termes of law would have intrusion especially after the tenant for life is deceatied. verbo *Abatement*. and abatement in all other cases: But I finde not any Latine word for Abatement but *intrusio*, so that I rather thinke these two English words to be *Synonyma*: and *Fleta cap. supra citato*, seemeth direct against this his opinion.*

Intrusione, is a Writ that lyeth against the Intruder: *Regist. fol. 233.*

Inventarie (*inventarium*) is a description or repertory orderly made of all dead mens goods and Cattels prized by foure credible men or more, which every Executor or Administrator ought to exhibite to the Ordinary, at such times as hee shall appoint the same. *West. parte prim. Symb. lib. 2. sect. 696.* where likewise

you may see the forme: This Inventory procedeth from the Civill Law: for whereas by the aun-
cient Lawe of the Romanes, the Heire was tyed to answer all the Testators debts, by which meanes heritages were prejudicial to many men and not profitable: *Iustinian* to incourage men the better to take upon them this charitable office, ordeined that if the Heire would first make and exhibite a true Inventory of all the Testators substance comming to his hand, hee should bee no further charged, then to the value of the Inventory: *l. ult. Cod. de iure deliberandi.*

Invest (*investire*) commeth of the French word (*Investere*) and signifieth to give possession. Heare *Hatoman de verbis feudalibus, verbo Investitura: Investitura barbarum nomen, barbaricam quoque rationem habet. Nam ut ait Feudista, lib. 2. tit. 2. Investitura proprie dicitur quando hasta vel aliquod corporum traditur a domino;* with us we use likewise to admit the Tenant, by delivering them a verge or rodd into their hands, and ministering them an oath, which is called Investing: others define it thus: *Investitura, est alicujus in suum jus introductio.*

Inure, signifieth to take effect: as the pardon inureth: *Stannf. prerog. fol. 40.* See *Enure*,

Ioynder, is the coupling of two

in a suit or action against another: *Fitzh. nat. br. fol. 118. H. 201. H. 221. & H.* in many other places, as appeareth in the *Index. verbo Ioynder.*

Ioynt tenants (*simul tenentes*) *liber in iractionum, titulo Formdon in viciu. 3.* bee those that come to and hold Lands or Tenements by one title *pro indiviso*, or without partition. *Litleton lib. 3. cap. 3.* and Termes of Law: See *Tenants in common.*

Ioyning of issue (*Iunctio exitus*) See *Issue.*

Jointure (*Iunctura*) is a covenant whereby the husband or some other friend in his behalfe assureth unto his wife, in respect of mariage, lands or tenements for terme of her life, or other wife, See *West. part. 2. Symbol. lib. 2. titulo Covenants, sect. 128.* and the new exposition of the law Termes: It seemeth to be called a *Ioynture*, either because it is granted *ratione iunctura in matrimonio*, or because the land in Franke mariage, is given ioyntly to the Husband and the Wife, and after to the Heires of their bodies, whereby the Husband and Wife bee made ioynt tenants during the coverture. *Coke lib. 3. Butler and Bakers case. f. 27. b.* See *Franckmariage.* *Ioynture*, is also used as the abstract of *Ioynt tenants.* *Coke l. 3. the Marques of Winchesters Case. fol. 3. a. b. iunctura*, is also by

Bracton and *Fleta* used for joyn-
ing of one bargaine to another,
Fleta lib. 2. cap. 60. touching the
selfe same thing : and therefore
joynture in the first signification,
may be so called, in respect that
it is a bargaine of livelyhood for
the wife : adjoynd to the con-
tract of mariage.

Journ Choppers, anno 8. *Hen. 6.*
cap. 5. be regraters of yarne. Whe-
ther that wee now call (yarne)
were in those daies called (*journ*)
I cannot say : but (*Choppers*)
in these daies are well knowne to
be changers, as *choppers* of *Chur-*
ches, &c.

Journeyman, commeth of the
French (*Journee*) that is a day, or
dayes worke, which argueth that
they were called *Journeyman*,
that wrought with others by the
day, though now by statute it be
extended to those likewise, that
covenant to worke in their oc-
cupation with another by the
yeare, anno quinto *Elizabeth*, *cap.*
quarto.

Issue (*Exitus*) commeth of the
French (*Issir. i. emanare*) or the
Substantive (*Issue. i. exitus, even-*
tus) It hath divers applications
in the common law : sometime
being used for the children be-
gotten betwene a man and his
wife: sometime for profits grow-
ing from an amercement or fine,
or expences of suit : sometime
for profits of lands or tene-

ments : *West. 2. anno 13. Edw.*
prim. cap. 39. sometime for that
point of matter depending in suit,
whereupon the parties joyned and
put their cause to the triall of the
Jury : and in all these it hath but
one signification, which is an ef-
fect of a cause proceeding, as the
children be the effect of the ma-
riage betwene the Parents : the
profits growing to the King or
Lord from the punishment of a-
ny mans offence, is the effect of
his transgression: the point refer-
red to the triall of twelve men is
the effect of pleading or proceffe.
Issue, in this last signification, is
either generall or speciall : Ge-
nerall issue seemeth to be that,
whereby it is referred to the Jury
to bring in their verdict, whe-
ther the Defendant have done a-
ny such thing, as the Plaintiff
layeth to his charge. For exam-
ple: if it be an offence against a-
ny Statute, and the Defendant
pleade, *not culpable* : this being
put to the Jury, is called the ge-
nerall issue : and if a man com-
plaine of a private wrong which
the Defendant denieth, and plead,
no wrong nor disseisin, and this
be referred to the 12. it is like-
wise the generall issue, *Kitchin,*
fol. 225. See the *Dofcor* and *Sen-*
dent, fol. 158.b. the speciall issue
then must be that, where speciall
matter being alleadged by the
Defendant for his defence, both

the parties joyne thereupon, and so grow rather to a Demurrer, if it be *questio Iuris*, or to tryall by the Iurie, if it be *questio facti*; see the new Booke of Entries: *verbo*, *Issue*.

Iuncture. See *Joindre*.

Iure patronatus, See the newe Booke of Entries, *verbo Iure patronatus in quare impedit. fol. 465. col. 3.*

Iurie (*Iurata*) comineth of the French (*Iurer. i. jurare*) it signifieth in our Common Lawe, a companie of men as 24. or 12. Sworne to deliver a truth upon such evidence as shal be delivered them touching the matter in question. Of which tryall who may and who may not bee empanelled, see *Fitzh. nat. brev. fol. 165. D.* And for better understanding of this point, it is to be knowne, that there beethree manner of trialls in England: one by Parliament, another by battell, and the third by Assise or Iurie: *Smith de Repub. Anglorum, lib. 2. cap. 5. 6. 7.* touching the two former reade him, and see Battell and Combat, and Parliament: the triall by Assise (be the action civill or criminall, publike or private, personall or reall) is referred for the fact to a Iurie, and as they finde it, so passeth the Iudgement, and the great favour that by this the King sheweth to his Subjects more then the Princes

of other nations you may reade in *Glanvil. lib. 2. cap. 7.* where he called it *Regale beneficium elementis principis de consilio procerum populis indultum, quo vita hominum & Status integritati tam salubriter consulitur; ut in iure, quod quis in libero soli tenemento possidet, retinendo, duellum casum declinare possint homines ambiguum, &c.* see the rest. This Iury is not used onely in Circuits of Iustices Errant, but also in other Courts, and matters of Office, as if the Escheatour make inquisition in any thing touching his Office, hee doth it by a Iury or Inquest: if the Coroner inquire how a subject found dead, came to his end: hee useth an Inquest; the Iustices of Peace in their quarter Sessions, the Sheriffe in his County and Turne, the Bayliffe of a Hundred, the Steward of a Court Leete, or Court Baron, if they inquire of any offence, or descide any cause betweene party and party, they doe it by the same maner. So that where it is said that all things bee triable by Parliament, Battell, or Assise; Assise in this place is taken for a Iurie or Enquest, empaneled upon any cause in a Court where this kind of triall is used: and though it be commonly deemed, that this custome of ending and desciding causes proceed from the Saxons and Brittons, and was of fa-

favour permitted unto us by the Conquerour: yet I find by the grand *Customarie* of *Normandie*, *cap. 24.* that this course was used likewise in that Country. For *Assise* is, in that Chapter, defined to be an assembly of wise men, with the Bailiffe in a place certaine at a time assigned fortie daies before, whereby Iustice may be done in causes heard in the Court. Of this custome also, and those Knights of *Normandie*, *Iohannes Faber* maketh mention, in the *Rubrique* of the Title *de militari testamento*: in *Institut.* this Jury, though it appertaine to most Courts of the common law, yet is it most notorious in the halfe yeare Courts of the Iustices errants, commonly called the great Assises, and in the quarter Sessions, and in them it is most ordinarily called a Iurie. And that in civill causes: whereas in other Courts, it is oftener termed an Enquest, and in the Court Baron the Homage. In the generall Assise, there are usually many Iuries, because there be store of causes both civill and criminall commonly to be tried, whereof one is called the Grand Jury, and the rest Petit Iuries: whereof it seemeth there should be one for every Hundred, *Lamb. Eirenar. li. 4. cap. 3. pag. 384.* The Grand Iurie consisteth ordinarily of 24. grave and

substantiall Gentlemen, or some of them Yeomen, chosen indifferently out of the whole Shire by the Sheriffe, to consider of all Bills of Inditement preferred to the Court: which they doe either approve, by writing upon them these words: *Billa vera*: or disallow, by writing, *Ignoramus*: such as they doe approve, if they touch Life and Death, are farther referred to another Jury to be considered of, because the case is of such importance: but others of lighter moment, are upon their allowance, without more worke fined by the Bench, except the party travers the Inditement, or challenge it for insufficiencie, or remove the cause to a higher Court by *Certiorarie*, in which two former cases it is referred to another Iurie, and in the latter transmitted to the higher, *Lamb. Eir. li. 4. ca. 7.* and presently upon the allowance of this Bill by the Grand Enquest, a man is said to be indited. Such as they disallow, are delivered to the Bench, by whom they are forthwith cancelled or torne. The Petit Jury consisteth of twelve men at the least, and are empannelled, as well upon criminall as upon civill causes, those that passe upon offences of Life and Death, doe bring in their verdict either *guiltie* or not *guiltie*, whereupon the Prisoner, if hee

bee found guilty, is said to be convicted, and so afterward receiveth his judgement, and condemnation: or otherwise is acquitted and set Free: Of this reade *Fortesc. cap. 27.* those that passe upon civill causes reall, are all, or so many as can conveniently be had, of the same Hundred, where the land or tenement in question doth lie, and foure at the least. And they upon due examination bring in their verdict either for the Demandant, or Tenant. Of this see *Fortescue, cap. 25, 26.* according unto which, judgement passeth afterward in the Court where the cause first began: and the reason hereof is, because these Iustices of Assise, are in this case, for the ease of the Country, onely to take the verdict of the Jury, by the vertue of the writ called (*Nisi prius*) and so returne it to the Court where the cause is depending. See (*Nisi prius.*) Ioyne with this the chapter formerly cited out of the Customarie of *Normandie*: and that of King *Etheldreds* lawes, mentioned by *Master Lamberd, verbo Centuria.* in his explication of Saxon words. And by these two words you shall perceiue, that as well among these *Normans*, as the *Saxons*, the men of this Jury were Associates and Assistants to the Judges of the Court, in a kind of equality; whereas,

now a daies they attend them in great humility, and are, as it were, at their command for the service of the Court: the words set downe by *M. Lamberd* are these: *In singulis centuriis comitia sunt, atq; libere condicionis viri duodeni etate superiores, una cum preposito sacra tenentes, juranto, se adeo virum aliquem innocentem haud condemnaturos, sotentve absolutores*: to this joyne also the 69. chapter of the said Customarie. See *Enquest.* See 12. *Men.* See *Lamberds Eirenarch. lib. 4. cap. 3. pag. 384.*

Iuris utrum, is a writ, that lyeth for the incumbent, whose predeceffour hath alienated his lands or tenements; the divers uses of which writ, see in *Fitzh. nat. br. fol. 48.*

Iurisdiction (*Iurisdiclio*) is a dignity which a man hath by a power to doe Iustice in causes of Complaint made before him. And there be two kinds of Iurisdicitions, the one that a man hath by reason of his fee, and by vertue thereof doth right in all plaints concerning his fee: The other is a Iurisdiction given by the Prince to a Bayliffe: this division I have in the Customarie of *Normandie, cap. 2.* which is not unapt for the practise of our Common wealth, for by him whom they call a Bayliffe, wee may understand all that have

commission from the Prince to give iudgement in any cause: The Civilians divide *iurisdictionem* generally underſtand in *imperium & iurisdictionem*: and *imperium in merum & mixtum*. Of which you may reade many eſpeciall tractats written of them, as a matter of great difficulty and importance.

Iuſtes, commeth of the French (*Iouſtes*, i. *decuſus*) and ſignifieth with us, contentions betweene Martiall men by ſpeares on horſbacke, anno 24. *H. 8. cap. 13.*

Iuſtice (*Iuſticiarius*) is a French word, and ſignifieth him that is deputed by the King to doe right by way of iudgement: the reaſon why hee is called *Iuſtice*, and not *Iudex*, is becauſe in ancient time the latine word for him was (*Iuſtitia*) and not (*Iuſticiarius*) as appeareth by *Glanv. lib. 2. cap. 6.* *Roger Hoveden part. poſter. ſuorum annalium, fol. 413. a.* and divers other places, which appellation wee have from the *Normans*, as appeareth by the Grand Cuſtumarie, *cap. 3.* And I doe the rather note it, becauſe men of this function ſhould hereby conſider, that they are or ought to be, not (*Iuſti*) in their iudgements, but in abſtract (*ipſa iuſtitia*) howbeit I hold it well, if they performe their Office in *concreto*. Another reaſon why they are called *Iuſticiarij* with us, and not

Iudices, is, becauſe they have their authoritie by deputation, as Delegates to the King, and not *iure magistratus*; and therefore cannot depute others in their ſtead, the Iuſtice of the Peere onely excepted, who hath that libertie eſpecially given him by the ſtature, anno 32. *H. 8. cap. 35.* for the Chancellor, Maſhall, Admirall, and ſuch like are not called *Iuſticiarii*, but *Iudices*: of theſe Iuſtices you have divers ſorts in England, as you may perceiue here following. The manner of creating theſe Iuſtices, with other appertinances, reade in *Fortescu. cap. 51.*

Iuſtice of the Kings bench (*Iuſticiarius de Banco Regis*) is a Lord by his Office, and the chiefe of the reſt; wherefore he is alſo called *Capitalis Iuſticiarius Anglia*: his Office eſpecially is to heare and determine all plects of the crowne: that is, ſuch as concerne offences committed againſt the crowne, dignitie, and peace of the King; as treaſons, felonies, mayhems, and ſuch like, which you may ſee in *Bracton lib. 3. tractat. 2. per totum*: and in *Stamf. treatiſe* intituled, *The plects of the Crowne*, from the firſt chapter to the fiftie one of the firſt Booke. But either it was from the beginning, or by time is come to paſſe, that hee with his Aſſiſtants, heareth all perſonall actions, and

reall also, if they be incident to any personall action depending before them: See *Cromptons jurisd.* fol. 67. &c. Of this Court *Bracton lib. 3. cap. 7. nu. 2.* saith thus: *Placita vero civilia in rem et personam in Curia domini Regis terminanda, coram diversis Iusticiariis terminantur: Habet enim plures curias in quibus diversa actiones terminantur; & illarum curiarum habet unā propriam, sicut aulam regiam, et iusticiarios capitales qui proprias causas Regis terminant, & aliorum omnium per querelam vel per privilegium sive libertatam; ut si sit aliquis qui implacitari non debeat, nisi coram domino Rege.* This Iustice (as it seemeth) hath no patent under the broad Seale. For so *Crompt.* saith *ubi supra.* He is made onely by writ, which is a short one to this effect: *Regina Iohanni Popham militi salutem: Sciatis quod constituimus vos Iusticiarium nostrum capitalem, ad placita coram nobis terminandum, durante beneplacito nostro, Teste, &c.* And *Bracton* in the place now recited, speaking of the Common Plee, saith, that *Sine Warranto jurisdictionem non habet*, which (I thinke) is to bee understood of a Commission under the great Seale. This Court was first called the Kings Bench, because the King sate as Iudge in it in his proper Person, and it was moveable with the Court. See *anno*

9. H. 3. cap. 11. more of the Iurisdiction of this Court, see in *Crompton ubi supra.* See *Kings Bench.* The oath of the Iustices see in the statute, *anno 18. Ed. 3. stat. 4.* See *Oath.*

Iustice of common ples (Iusticiarius communium placitorum) is also a Lord by his Office, and is called (*Dominus Iusticiarius communium placitorum*) and he with his assistants originally did heare and determine all causes at the Common law, that is, all civill causes betweene common persons, as well personall as reall, for which cause it was called the Court of Common Plee, in opposition to the Plee of the Crowne, or the Kings Plee, which are speciall and appertaining to him onely. Of this, and the Iurisdiction heereof, see *Cromptons jurisdiction, fo. 91.* This Court was alwayes ferled in a place, as appeareth by the statute *anno 9. H. 3. cap. 11.* The oath of this Iustice and his Associates, see *anno 18. Edm. 3. Stat. 4.* See *Oath.*

Iustice of the Forest (Iusticiarius Foresta) is also a Lord by his Office, and hath the hearing and determining of all offences within the Kings Forest, committed against Venison or Vert; of these there bee two, whereof the one hath Iurisdiction over all the Forests on this side *Trent:*
the

the other of all beyond. The chiefeſt point of their Iuriſdiction, conſiſteth upon the articles of the *Kings Charter*, called *Charta de Foreſta*, made anno 9. H. 3. which was by the *Barons* hardly drawne from him, to the mitigation of over cruell ordinances made by his predeceſſors. Reade *M. Camdens Britan. pag. 214.* See *Protoforeſtarus*. The Court where this Juſtice ſitteth and determineth, is called the Juſtice ſeate of the Foreſt, held every three yeares once, whereof you may reade your fill in *M. Manwoods* firſt part of Foreſt lawes, pag. 121. & 154. & pag. 76. Hee is ſometimes called Juſtice in Eyre of the Foreſt. See the reaſon in *Juſtice in Eyre*. This is the onely Juſtice that may appoint a Deputy *per ſtatutum*, anno 32. H. 8. cap. 35.

Juſtices of Aſſiſe (*Iuſticiarii ad capiendas Aſſiſas*) are ſuch as were wont by ſpeciall Commiſſion to be ſent (as occaſion was offered) into this or that Countie to take Aſſiſes: the ground of which polity, was the eaſe of the Subjects: For whereas theſe actions paſſe alway by Jury, ſo many men might not without great hinderance be brought to London, and therefore Juſtices for this purpoſe were by Commiſſion particularly authoriſed, and ſent downe to them. And it may

ſeeme that the Juſtices of the Common Plees had no power to deale in this kinde of buſineſſe, untill the Statute made anno 8. Richard. 2. cap. 2. for by that they are enabled to take Aſſiſes, and to deliver Gaols. And the Juſtices of the Kings Bench haue by that Statute ſuch power affirmed unto them, as they had one hundred yeares before that: Time hath taught by experience, that the better ſort of Lawyers being fitteſt both to judge and pleade, may hardly bee ſpared in terme time to ride into the Countrey about ſuch buſines: and therefore of latter yeares it is come to paſſe, that theſe Commiſſions (*ad capiendas Aſſiſas*) are driven to theſe two times in the yeare out of terme, when the Juſtices and other may bee at leaſure for theſe Controverſies alſo: whereupon it is alſo fallen out, that the matters wont to bee heard by more generall Commiſſions of Juſtices in Eyre, are heard all at one time with theſe Aſſiſes: which was not ſo of old, as appeareth by *Bracton, lib. 3. ca. 7. nu. 2. Habet etiam Iuſticiarios itinerantes de comitatu in Comitatum, quandoq; ad omnia placita, quandoq; ad quedam ſpecialia, ſicut Aſſiſas &c. & ad Gaolas deliberandas, quandoq; ad unam vel duas, et non plures.* And by this meanes the Juſtices of both Benches, being juſtly to bee accounted

red the fittest of all others, and others their Assistants, as also the Sergeant at law may be employed in these affaires, who as gravest in yeares, so are they ripest in judgement, and therefore likeliest to be void of parciality, for being called to this dignity, they give over practise, *anno 8. R. 2. cap. 3.* but this alway to be remembered, that neither Iustice of either Bench, nor any other may be Iustice of Assise in his owne Country, *anno 8. R. 2. cap. 2. & anno 33. H. 8. cap. 24.* lastly, note that in these daies, though the selfe same men dispatch business of so divers natures, and all at one time, which were wont to be performed by divers, and at severall times, yet they doe it by severall Commissions, *Cromptons Jurisdiction, fol. 210.* For those who be in one word called Iustices of Circuit, and twice every yeare passe, by two and two, through all England, have one Commission to take Assises, another to deliver Goales, another of Oyer and Terminer. That Iustices of Assise, and Iustices in Eyre did anciently differ, it appeareth *anno 27. Ed. 3. cap. 5.* and that Iustices of Assise, and Iustices of Goale delivery were divers, it is evident by *anno 4. Ed. 3. cap. 3.* The oath taken by Iustices of Assise, is all one with the oath taken by the Iustices of the Kings

Bench. *Old abridgement of Statutes. titulo Sacramentum Iusticiariorum.* See Oath.

Iustices of Oyer and Terminer, (Iusticiarii ad audiendum & Terminandum) were Iustices deputed upon some especiall or extraordinary occasion, to heare and determine some or more causes. *Fitzherbert* in his *naturabrevium* saith, that the Commission d'Oyer and Terminer, is directed to certaine persons upon any great assembly, insurrections, hainous demanure, or trespassse committed. And because the occasion of granting this commission should be maturely weighed, is provided by the statute *anno 2. Ed. 3. cap. 2.* that no such commission ought to be granted, but that they shall be dispatched before the Iustices of the one Bench or other, or Iustices errants, except for horrible trespassses, and that by the especiall favour of the King. The forme of this commission, see in *Fitzh. natur. brev. fol. 110.*

Iustices in Eyre (Iusticiarii itinerantes) are so termed of the French (*Erre.i. iter*) which is an old word, as (*a grand erre.i. magnis itineribus*) proverbially spoken; the use of these in ancient time, was to send them with Commission into divers Counties, to heare such causes especially, as were termed the

Plees of the Crowne, and therefore I must imagine they were so sent abroad for the ease of the Subjects, who must else have beene hurried to the Kings Bench, if the cause were too high for the County Court. They differed from the Iustices of *Oyer* and *Terminer*, because they (as is above said) were sent upon some one, or few speciall cases and to one place: whereas the *Iustices in Eyre*, were sent through the Provinces and Counties of the land, with more Indefinite and generall Commission, as appeareth by *Bracton*, lib. 3. cap. 11, 12, 13. and *Britton*, cap. 2. And againe they seeme to differ in this, because the Iustices of *Oyer* and *Terminer*, (as it is before said) were sent uncertainly, upon any uproare or other occasion in the country: but these in *Eyre* (as *M Gwin* setteth downe in the Preface to his Reading, were sent but every seven yeare once; with whom *Horn* in his *mirrour of Iustices*, seemeth to agree, lib. 2. cap. *queux poient estre actours*, &c. and lib. 2. ca. *des peches criminels*, &c. *al suyte de Roy*, &c. and li. 3. ca. *de Iustices in Eyre*: where hee also declareth what belonged to their office. These were instituted by *Henry* the 2. as *M. Camden* in his *Britannia* witneseth pa. 104. And *Roger Hoveden*, parse poste-

ri. *annalium*. fol. 313. b. hath of them these words: *Iusticiarii itinerantes constituti per Henricum secundum. i. qui divisit regnum suum in sex partes, per quarum singulas tres Iusticiarios itinerantes constituit, quorum nomina hae sunt, &c.*

Iustices of Gaol delivery (*Iusticiarii ad Gaolas deliberandas*) are such as are sent with Commission, to heare and determine all causes appertaining to such, as for any offence are cast into the *Gaol*, part of whose authoritie is, to punish such, as let to Mainprise those prisoners, that by law be not baileable by the statute *de finibus*, cap. 3. *Fitz. h. nat. br.* fol. 151. I. These by likelihood in ancient time, were sent to Countries upon this severall occasion. But afterward Iustices of *Assise* were likewise authorised to this, anno 4. *Ed.* 3. cap. 3. Their oath is all one with other of the Kings Iustices of either Bench, *Old Abridgement of Statutes*. titulo *Sacramentum Iusticiariorum*. See *Othe*.

Iustices of labourers, were Iustices appointed in those times, to redresse the frowardnesse of labouring men, that would either be idle, or have unreasonable wages. See anno 21. *Edwardi* 3. cap. primo. anno 25. *eiusd.* cap. 8. & anno 31. *eiusdem* cap. 6.

Iustices of Nisi prius, are all one now a daies with Iustices of Assises: for it is a common Adjournment of a cause, in the Common Plee to put it off to such a day, *Nisi prius Iusticiarii venerint ad eas partes, ad capiendas Assisas*: and upon this clause of Adjournment, they are called Iustices of *Nisi prius*, as well as Iustices of Assises; by reason of the writ or action that they have to deale in: their commission you may see in *Cromptons Jurisdictiones*, fol. 204. yet *M. Crompton* maketh this difference betweene them, because Iustices of Assise have power to give judgement in a cause, but Iustices of *Nisi prius*, onely to take the verdict. But in the nature of both their functions this seemeth to be the greatest difference, because Iustices of *Nisi prius* have to deale in causes personall as well as reall, whereas Iustices of Assise, in strict acceptation, deale onely with the possessory writs called *Assises*.

Iustices of triall baston, aliàs of *trayl baston*, were a kind of Iustices appointed by King *Edward* the first upon occasion of great disorder growne in the Realme, during his absence in the *Scottish* and *French* wars, they are called in the *Old nat. brev. fo. 52*. Iustices of triall *Baston*, but by *Holyn-*

shed and Stow, Ed. pri. of *Traile baston*, of trailing or drawing the staffe as *Holinshed* saith: Their office was to make inquisition through the Realme by the verdict of substantiall Iuries upon all officers, as Maiors, Sheriffes, Bailiffes, Escheatours and others, touching extortion, briberies and other such grievances, as intrusions into other mens lands, and Barratours that used to take money for beating of men, and also of them whom they did beate: by meanes of which inquisitions many were punished by death, many by ransome, and so the rest flying the Realme, the land was quieted, and the King gained great riches toward the supporting of his wars. Inquire farther of the name. *Baston* is thought by some to be the beame of a paire of Scoales or Weights: And this is in this place metaphorically applied to the just peising of recompence for offences committed. My poore opinion is, that the etymologic of this title or addition groweth from the French (*Treilles*) i. *cancelli*, bars or letises of what thing soever, a grate with crosse bars, or of the singular (*Treille*) i. *pargula*, an house arbour, a raile or forme, such as vines run upon, and (*Baston*) a staffe or pole, noting thereby, that the Iustices employed in this Commission, had authority

thority to proceede without any solemne Judgement Seate in any place either compassed in with railes, or made Booth or Tent-wise, set up with staues or poales without more worke, wheresoever they could apprehend the malefactors they sought for. See *libro Assisarum, folio 57. 141.*

Iustices of Peace (Iusticiarii ad pacem) are they that are appointed by the Kings Commission, with others to attend the peace of the Countie where they dwell: of whom some upon speciall respect are made of the *Quorum*, because some businesse of importance may not be dealt in without the presence or assent of them, or one of them. Of these it is but folly to write more, because they have so many things pertaining to their Office, as cannot in few words be comprehended. And againe Iustice *Fitzherbert* some time sithence, as also *Master Lamberd* and *Master Crompton* of late have written Bookes of it to their great commendation, and fruitfull benefit of the whole Realme. See also *Sir Thomas Smith de reipub: Angliorum lib. 2. cap. 19.* They were called *Gardians* of the Peace, untill the 36. yeare of King *Edward* the third, *cap. 12.* where they bee called *Iustices.* *Lamb. Eirenarcha lib. 4. cap. 19.*

bag. 578. Their oath see also in *Lambard lib. 1. cap. 10.*

Iustices of Peace, &c. within Liberties, Iusticiarii ad pacem infra libertates, be such in Cities and other Corporate Townes, as those others bee of any County, and their authoritie or power is all one within their severall precincts, *Anno 27. H. 8. cap. 25.*

Iustices, is a Writ directed to the Sheriffe, for the dispatch of Iustice in some especiall cause, wherewith of his owne authoritie he cannot deale in his Countie Court. *lib. 12. cap. 18.* whereupon the Writ *de Excommunicato deliberando*, is called a *Iustices* in the *Old natura brev. fol. 35.* Also the Writ, *de homine replegiando eodem fol. 41.* Thirdly, the Writ, *de secunda superoneratione pastura, eodem fol. 73.* *Kitchin fol. 74.* saith, that by this Writ called *Iustices*, the Sheriffe may hold plee of a great summe, whereas of his ordinary authoritie hee cannot hold plees but of summes under forty shillings. *Crompton fol. 231.* agreeth with him. It is called a *Iustices*, because it is a Commission to the Sheriffe *ad Iusticiandum aliquem*, to doe a man right, and requireth no returne of any certificate of what hee hath done. *Bracton. lib. 4. tract. 6. cap. 13. num. 2.* maketh mention of a *Iustices* to the Sheriffe of London, in a case

case of *Dower*. See the new booke of *Entries, Iustices*.

Iustificatio (iustificatio) is an upholding or shewing a good reason in Court, why he did such a thing as he is called to answer, as to iustifie in a cause of *Replevin*. *Broke. titulo Replevin*.

K E

Keeper of the great Scale (*Custos Magni Sigilli*) is a Lord by his Office, and called Lord Keeper of the great Scale of England, &c. and is of the Kings priuy Councell, under whose hands passe all Charters, Commissions, and Grants of the King strengthened by the great or broad Scale. Without the which Scale, all such Instruments by Law are of no force; for the King is in interpretation and intendment of Law, a Corporation, and therefore passeth nothing firmly, but under the said Scale. This Lord Keeper by the Statute *anno 5. Elizab. cap. 18.* hath the same and the like place, authoritie, preheminence, Jurisdiction, execution of Lawes, and all other Customes, Commodities, and advantages, as hath the Lord Chancellor of England for the time being.

Keeper of the priuy Scale (Custos privati Sigilli) is a Lord by his Office, vnder whose hands passe all Charters signed by the Prince,

before they come to the broad or Great Scale of England. Hee is also of the Kings priuy Councell. Hee seemeth to bee called Clerke of the priuy Scale, *anno 12. Rich. 2. cap. 11.* But of late dayes I have knowne none to beare this Office, by reason the Prince thinketh good, rather to keepe this Scale in his owne hands, and by private trust to commit it to his principall Secretary, or some such one of his Councell as hee thinketh fit for that function.

Keeper of the Touch, anno 2. H. 6. cap. 14. seemeth to be that Officer in the Kings Mint, which at this day is termed the Master of the Assay. See *Mint*.

Keeper of the Forest (Custos Foresta) is also called chiefe Warden of the Forest, *Manwood parte pri.* of his Forest lawes, *pag. 156. &c.* and hath the principall government of all things belonging thereunto: as also the check of all officers belonging to the Forest. And the Lord Chiefe Iustices in Eyre of the Forest, when it pleaseth him to keepe his Iustice Seate, doth forty daies before, send out his generall Summons to him, for the warning of all under-officers, to appeare before him at a day assigned in the Summons. This see in *Manwood ubi supra*.

King (Rex) is thought by *M.*

Camden in his *Brittan.* pag. 105. to bee contracted of the Saxon word *Cynige*, signifying him that hath the highest power & absolute rule over our whole Land. And thereupon the King is in intendment of Lawe cleared of those defects, that common persons be subject unto. For he is alwayes supposed to be of full age, though hee be in yeares never so young. *Cromptons jurisdictions fo. 134. Kitchen fol. 1.* He is taken as not subject to death, but is a Corporation in himselfe that liveth ever. *Crompton ibid.* Thirdly, hee is above the Law by his absolute power. *Bracton lib. prim. cap 8. Kitchen fol. 1.* and though for the better and equall course in making Lawes, hee doe admit the 3. Estates, that is, Lords Spirituall, Lords Temporall, and the Commons unto Councell: yet this, in divers learned mens opinions, is not of constraint, but of his owne benignitie, or by reason of his promise made upon oath, at the time of his coronation. For otherwise were hee a subject after a sort and subordinate, which may not bee thought without breach of dutie and loyaltie. For then must we deny him to bee above the Lawe, and to have no power of dispensing with any positive Law, or of granting especiall Priviledges and Charters unto any, which

is his onely and cleare right, as *Sir Thomas Smith* well expresseth *lib. 2. cap. 3. de Repub. Anglica.* and *Bracton lib. 2. cap. 16. num. 3.* and *Britton cap. 39.* For he pardoneth life and limme to offenders against his Crowne and Dignitie, except such as hee bindeth himselfe by oath not to forgive. *Stamf. pl. cor. lib. 2. cap. 35.* And *Habet omnia jura in manu sua. Bracton lib. 2. cap. 24. num. prim.* And though at his coronation hee take an oath not to alter the Lawes of the land; Yet this oath notwithstanding, he may alter or suspend any particular Law that seemeth hurtfull to the publike estate. *Blackwood in Apologia Regum, ca. 11.* See *Oath of the King.* Thus much in short, because I have heard some to be of opinion, that the Lawes be above the King. But the Kings oath of old you may see in *Bracton lib. 3. cap. 9. nu. 2.* for the which looke in *Oath of the King.* The Kings oath in English, you may see in the old Abridgement of Statutes, *titulo Sacram. Regis.* Fourthly, the Kings onely testimony of any thing done in his presence, is of as high nature and credit as any Record. Whence it cometh, that in all Writs or Precepts sent out for the dispatch of Justice, he useth none other Witness but himselfe, alwayes using these words vnder it, *Teste me ipso.*

Lastly, he hath in the right of his Crowne many Prerogatiues above any common person, bee hee never so potent or honourable: whereof you may reade your fill in *Stawnfords* Tractate upon the Statute thereof made, anno 17. Ed. 2. though that containe not all by a great number. What the Kings power is, reade in *Bracton*, lib. 2. cap. 24. nu. prim. & 2.

King of Herald (*Rex Heraldorum*) is an Officer at Armes, that hath the preeminence of this Societie. See *Herald*. This Officer of the *Romanes* was called *Pater Patratus*.

Kings Bench (*Bancus Regius*) is the Court or Judgement Seate where the King of England was wont to sit in his owne person: and therefore was it moveable with the Court or Kings Household. And called *Curia domini Regis*, or *Aula Regia*, as Master *Gwinn* reporteth in the Preface to his Readings; and that, in that and the Exchequer, which were the onely Courts of the King, untill *Henry* the thirds dayes, were handled all matters of Iustice, as well Civill as Criminall; whereas the Court of Common Pleees might not be so by the Statute: anno 9. H. 3. cap. 11. or rather, by Master *Gwinn*s opinion, was presently upon the grant of the great Charter severally erected. This Court of the Kings Bench was wont in ancient times to bee especially exercised in all Criminall matters and Pleees of the Crowne, leaving the handling of private contracts to the County Court. *Glanvil*, lib. 1. cap. 2. 3. 4. & lib. 10. cap. 18. *Smith de Repub. Anglicana*, lib. 2. cap. 11. and hath President of it, the Lord Chiefe Iustice of England, with three or foure Iustices assistants, foure or five as *Fortescue* saith, cap. 51. and Officers therunto belonging, the Clerke of the crowne, a *Pranatory*, or *Protonotarie*, and other sixe inferior Ministers or Attornies. *Camb. Britan.* pag. 112. See *Latitat*. How long this Court was moveable, I finde not in any Writer: But in *Brittons* time, who wrot in K. Ed. the 1. his daies, it appeareth it followed the Court, as M. *Gwin* in his said preface wel observeth out of him. See *Iustice of the Kings Bench*.

Kings silver, is properly that mony, which is due to the King in the Court of common Pleees, in respect of a licence there granted to any man for passing a fine. *Coke* vol. 6. fol. 39. a. & 43. b. *Kintall of wood*, *iran*, &c. is a certaine waight of Merchandize, to the valew of an hundred, or something under or over, according to the divers uses of sundry nations. This word is mentioned

by *Plowden* in the case of *Reniger and Fogassa*.

Knave, is used for a man servant, *an. 14. Ed. 3. stat. 1. cap. 3.* And by *M. Versigans* judgement, in his Restitution of decayed intelligence, *ca. 10.* is borrowed of the Dutch (*cnapa*) cnave or knave, which signifie all one thing: and that is some kind of officer or servant: as (*scild-cnapa*) was he, that bore the weapon or shield of his superior, whom the Latines call (*armigerum*) and the French men (*escuyer.*)

Knight (Miles) is almost one with the Saxon (*Cnight i. Admister*) and by *M. Camdens* judgement, *pag. 110.* derived from the same; with us it signifieth a Gentleman, or one that beareth Armes, that for his vertue, and especially Martiall prowesse, is by the King, or one having the Kings authority, singled (as it were) from the ordinary sort of Gentlemen, and raised to a higher account, or step of Dignity. This among all other nations, hath his name from the Horse: Because they were wont in ancient time, to serve in wars on horsebacke. The Romans called them *Equites*, the Italians at these daies terme them *Cavallieri*. The French men *Chevalliers*. The German, *Reiters*. The Spaniard *Cavalleros*, or *Varones a Cavallo*. It appeareth by the statute anno 1.

Ed. 2. cap. 1. that in ancient times, Gentlemen having a full Knights fee, and holding their land by Knights service, of the King, or other great person, might be urged by distresse, to procure himselfe to bee made Knight, when hee came to mans estate for the answerable service of his Lord in the Kings wars. To which point you may also reade *M. Camden* in his *Britan. pa. 111.* But these customes be not now much urged: this dignity in these dayes being rather of favour bestowed by the Prince upon the worthier sort of Gentlemen, then urged by constraint. The manner of making Knights (for the dignitie is not hereditarie) *M. Camden* in his *Britan. pag. 111.* shortly expresseth in these words: *Nostris verò temporibus, qui Equestrè dignitatem suscipit, flexis genibus educto gladio leviter in humero percussitur. Princeps his verbis Gallicè affatur: Sus vel sois Chevalier au nom de Dieu. id est. Surge, aut, Sis Eques in nomine Dei.* The Solemnitie of making Knights among the Saxons, *M. Stow* mentioneth in his *Annals, pag. 159.* See the priviledges belonging to a Knight in *Ferns Glorie of Generositie, pag. 116.* Of these Knights there be two sorts: one Spirituall, another Temporall. *Cassanans in gloria mundi, parte 9. Considerat. 2.* of both these sorts,

and of many subdivisions, reade him in that whole part. The Temporall, or second sort of Knights M. *Ferne* in his Glorie of generositie, pag. 103. maketh threefold here with us. Knights of the Sword, Knights of the Bath, and Knights of the Sovereigne Order, that is, of the Garter: of all which you may reade what hee saith. I must remember that mine intent is but to explain the termes especially of our common law. Wherefore such as I find mentioned in Statutes, I will define as I can. M. *Skene de verbor. significat. verbo Milites*, saith, that in the ancient Lawes of Scotland, Freeholders were called *Milites*. Which may seem to have bene a custome with us also by divers places in *Bracton*, who saith, that Knights must be in Juries, which turne Freeholders doe serve.

Knights of the Garter (*Equites Garterii*) are an Order of Knights, created by *Edward* the third, after hee had obtained manie notable victories (*King John* of France, and *King James* of Scotland being both his Prisoners together, and *Henry* of Castile the Bastard expelled out of his Realme, and *Don Pedro* being restored unto it by the Prince of Wales, and Duke of Aquitaine, called the Blacke Prince) who for furnishing of this Honorable

Order, made a choice out of his owne Realme, and all Christendome, of the best, and most excellent renowned Knights in Vertues and Honour, bestowing this dignitie upon them, and giving them a Blew Garter, decked with Gold, Pearle, and Precious stones, and a Buckle of gold to weare daily on the left legge onely, a Kirtle, Gowne, Cloake, Chaperon, a Coller, and other stately and magnificall apparell, both of stuffe and fashion, exquisite and heroicall, to weare at high Feasts, as to so high and Princely an Order was meet. Of which order, hee and his successors, Kings of England, were ordained to be the Sovereignes, and the rest fellows and brethren to the number of twentie sixe, *Smith de Repub. Anglo. lib. prim. cap. 20.* I have seen an ancient monument, whereby I am taught that this Honourable Companie is a Colledge or a Corporation, having a common Seale belonging unto it, and consisting of a Sovereigne Gardian, which is the King of England, that alwaies governes this order by himselfe or his Deputie, of twentie five Companions called Knights of the *Garter*, of fourteen secular Chanons that be Priests, or must be within one yeare after their admission: 13. Vicars also Priests, and 26. poore Knights, that have

have no other sustenance or meanes of living but the allowance of this house, which is given them in respect of their daily prayer to the Honour of God, and (according to the course of those times) of *Saint George*. There be also certaine officers belonging to this order, as namely, the Prelate of the *Garter*, which office is inherent to the Bishop of *Winchester*, for the time being, the Chancellor of the *Garter*, the *Register*, who is alwaies Deane of *Winfor*. The principall King at *Armes* called *Garter*, whose chiefe function is to mannage, and marshall their Solemnities at their yearely Feasts and Installations. Lastly, the Vsher of the *Garter*, which (as I have heard) belongeth to an Vsher of the *Princes chamber*, called *Blacke rod*. There are also certaine ordinances or Constitutions belonging unto this Societie, with certaine forfeitures, and sometime penances for the breakers of them; which constitutions concerne either the Solemnities of making these Knights, or their duties after their creation, or the Priviledges belonging to so high an order, but are too large for the nature of this poore *Vocabulary*. The site of this College, is the Castle of *Winfor*, with the Chapel of *Saint George*, erected by *Edward the third*,

and the Chapter house in the said Castell. Howbeit the yearely Solemnitie or Profession may be, and is, by the Soveraignes direction, performed at the Court, wheresoever it lyeth, upon *Saint Georges day*. *Master Camden* saith, that this order received great ornament from *Edward the fourth*. See *M. Fernes* glorie of Generositie, pag. 120. See *Garter. Hospinian* in his booke *de origine & progressu Monachatus*, maketh mention of this honourable order, terming it by ignorance of our tongue *ordinem Carteriorum equitum*, and *Charteriorum equitum*; which you may reade, cap. 307. as also *Bernardus Girardus* in his historie, lib. 15. cap. 185.

Knights of the Bath (*militēs balnei, vel de balneo*) are an order of Knights made within the Lifts of the *Bath*, girded with a Sword, in the ceremonie of his creation. *Fernes* glorie of generositie, pag. 105. These are spoken of, anno 8. Ed. 4. cap. 2. But I had an old Monument lent mee by a friend, whereby it appeareth, that these Knights were so called of a *Bath*, into the which (after they had beene shaven and trimmed by a Barber) they entred, and thence, the night before they were Knighted, being well bathed, were taken againe by two Esquires

commanded to attend them, dreed with fine linnen cloathes, and so apparelled, and led through many solemne Ceremonies: viz. Confessing their Sins, watching and praying all night in a Church or Chappell, with many other, to the order of Knighthood the next day. So that by the same reason these seemed to be termed Knights of the *Bathe*, by which Knights made out of the field in these daies, are called Knights of the *Carpet*, because in receiving their Order, they commonly kneele upon a *Carpet*.

Knights of the order of Saint John of Ierusalem (Milites Sancti Iohannis Hierosolymitani) were otherwise called the Knights of the *Rhodes*, being an order of Knighthood, that had beginning about the yeare of the Lord, 1120. *Honorius* then Pope of Rome, *Cassanens de gloria mundi*, parte 9. *Consideratione* 4. & *M. Ferne* in his *Glorie of Generositie*, pag. 127. they had their primary foundation, and chiefe abode first in *Hierusalem*, and then in *Rhodes*, where many of them lived under their Principall, called the *Master of Rhodes*, untill they were expelled thence by the Turke, Anno 1523. sithence which time, their chiefe Seat is at *Malta*, where they have done

great exploits against the Infidels, but especially in the yeare 1595. These, though they had their beginning and especialeft abroad first at *Ierusalem* and next in *Rhodes*, yet they encreased both in number and Revenues, living after the order of Priors under the rule of *Saint Augustine*, and were dispersed into *France*, *Spaine*, *Alvern*, *Campany*, *England*, and *Ireland*. Of these mention is made in the *stat. anno 25. H. 8. cap. 2. & anno 26. ejusdem, cap. secundo*, and it appeareth that they in England had one generall Prior, that had the government of the whole order within England and Scotland. *Reg. orig. fol. 20. b.* But toward the end of *Henry* the eights dayes, they in England and Ireland being found over much to adhere to the Bishop of *Rome* against the King, were suppressed, and their Lands and Goods referred by Parliament to the Kings disposition. *anno 32. H. 8. cap. 24.* The occasion and the propagation of this order more especially described, you may reade in the Treatise intituled the Booke of *Honour and Armes*, lib. 5. cap. 18, written by *M. Rich. Iohnes*.

Knights of the Rhodes, ann. 32. *H. 8. ca. 24.* See *Knights of the order of Saint Iohn*.

Knights of the Temple (otherwise called *Templers*) *Templarii*

plarii was an Order of Knight-hood, created by *Gelasius* the Pope, about the yeare of our Lord, 1117. and so called, because they dwelt in a part of the buildings belonging to the Temple. These in the beginning dwelling not farre from the Sepulchre of the Lord entertained Christian strangers and Pilgrims charitably, and in their Armour ledde them through the Holy Land, to view such things, as there were to be seene, without feare of Infidels adioyning. This Order continuing and increasing by the space of 200. yeares, was farre spread in Christendome, and namely here in England. But at the last, the chiefe of them at *Hierusalem*, being (as some men say) found to fall away to the *Sarazens* from Christianity, and to abound in many vices, the whole Order was suppressed by *Clemens quintus*, which was about King *Ed.* the 1. dayes, and their substance given partly to the Knights of the Rhodes, and partly to other Religious. *Cassan. de gloria mundi, parte 9. Consid. 3.* And see *anno prim. Ed. 1. cap. 24.* Others write that in truth their destruction grew from leaning to the Emperours against the Pope of Rome, whatsoever was pretended. *Ioach. Stephanus De iurisdictione lib. 4. cap. 10. nu. 18.* See *Templers.*

Knights of the Shire (*Milites Comitatus*) otherwise bee called Knights of the Parliament, and bee two Knights, or other gentlemen of worth, that are chosen in *pleno Comitatu*, by the Freeholders of every Countie that can dispend 40. shillings *per annum*, and be Resident in the shire, *anno 10. H. 6. cap. 2. & anno 1. H. 5. cap. 1.* upon the Kings writ, to be sent to the Parliament, and there by their counsell to assist the common proceedings of the whole Realme. These when every man that had a Knights fee, were customarily constrained to bee a Knight, were of necessity to bee *milites gladio cincti*, for so runneth the tenour of the writ at this day. *Cromptons Iurisdic. fol. pri.* But now there being but few Knights in comparison of former times, and many men of great livings in every county, Custome beareth that Esquiers may bee chosen to this office, *anno 23. H. 6. cap. 6.* so that they bee resident within the countie, *anno H. 6. cap. 7. & anno 1. H. 5. cap. prim.* For the observations in choice of these Knights, see the statutes, *anno 7. H. 4. cap. 15. & anno 11. ejusdem, cap. 1. & anno 6. Hen. 6. cap. 4. & anno 23. H. 6. cap. 15.* and the new booke of Entries, *verbo Parliament. nu. 1.* Their expences during the Parliament are borne by the Countie

County, *Anno 35. H. 8. cap. 11.*

Knight Marshall (*Marascallus hospitii Regii*) is an Officer in the Kings house, having jurisdiction, and cognisance of any transgression within the Kings house and verge, as also of contracts made within the same house, whereunto one of the house is a party. *Register orig. fo. 185. a. b. & fol. 191. b.* whereof you may there reade more at large.

Knights fee, (*Feudum militare*) is so much inheritance, as is sufficient yeerely to maintaine a knight with convenient revenue, which in *Henry the 3.* dayes was fiftene pounds. *Camdeni Britan. pag. 111.* or 680. acres of land, or 800. acres, *eadem.* But *Sir Thomas Smith* in his *Repub. Angl. lib. prim. cap. 18.* rateth it at fourtie pound. And I find in the statute for Knights, *anno pri. Ed. 2. cap. prim.* that such as had 20. pound in Fee, or for terme of life *per annum*, might be compelled to be Knights. *M. Stowe* in his *Annals, pag. 285.* saith, that there were found in England at the time of the Conquerour, 60211. Knights fees: others say 60215. whereof the Religious Houses before their suppression, were possessed of 28015. Knights Fee, is sometime used for the Rent, that a Knight payeth for his Fee to his Lord, of whom

hee holdeth. And this is an uncertaine summe, some holding by fortie shillings the shield, some by twentie shillings, as appeareth by *Bracton. lib. 5. tract. prim. cap. 2.*

Knighten Gylde, was a Gylde in London consisting of nineteene Knights, which king *Edgar* founded, giving unto them a portion of void ground lying without the walls of the City, now called *Portoken ward.* *Stowe* in his *Annals, pag. 151.*

L A

Laborarius, is a writ that lyeth against such, as having not wherof to live, do refuse to serve, or for him that refuseth to serve in Summer, where hee served in Winter, *Orig. Registr. fol. 189. b.*

Laches, cometh of the French (*lascher. i. laxare, or lasche. i. frigidus, ignavus, flaccidus*) it signifieth in our Common law, negligence: as no *laches* shall bee adjudged in the heire within age, *Littleton fol. 136.* and *Old nat. br. fol. 110.* where a man ought to make a thing, and makes it not, I of his *laches* cannot have an Assise, but I must take mine action upon the case.

Lagon. See *Flotzon.*

Laised lifes, anno. 1. R. 3. cap. 8.

Land tenant, anno 14. Edw. 3. stat. 1. cap. 3. & anno 23. ejusdem. cap.

cap. 1. & 26. ejusd. stat. 5. cap. 2.
See *Terre-tenent*, & anno 12. R. 2.
cap. 4. & anno 4. H. 4. cap. 8. It is
joyned with this word (*Possessor*)
as *Synonymon*. v. anno 1. H. 6. ca.
3. See *Terretenent*.

*Lanis de crescentia Wallia tradu-
cendis absq; custuma*, &c. is a writ
that lyeth to the Customer of a
Port, for the permitting one to
passe over Woolles without Cu-
stome, because he hath payd cu-
stome in *Wales* before, *Register*,
fol. 279.

Lapse (*Lapsus*) is a slip or de-
parture of a right of Presenting
to a voyde Benefice, from the
originall Patron, neglecting to
present within six moneths an-
to the Ordinarie. For wee say,
that Benefice is in lapse or lap-
sed, whereunto hee that ought
to present, hath omitted or slip-
ped his oportunitie, anno 13. *E-
lizab. cap. 12*. This lapse groweth
as well the Patron being igno-
rant of the avoydance, as privie,
except onely upon the Resigna-
tion of the former Incumbent, or
the Deprivation upon any cause
comprehended in the Statute, anno
13. *Eliz. cap. 12*. *Panor. in cap.
quia diversitatem, num. 7. de con-
cess. prabend. Rebuffus de devolut.
in praxi beneficiorum. Lancelotus
de collatione lib. 1. Institut. Canon.
§. Tempus autem*. In which cases
the Bishop ought to give notice
to the Patron.

Larceny (*Laricinium*) commeth
of the French (*Larcen. i. furtum,
detrahitio alicui*) It is defined by
*West. parte 2. Symb. titulo Indite-
ments*, to bee theft of personall
goods or chatels, in the owners
absence: and in respect of the
things stolne, it is either great or
small. *Great Larceny* is, wherein
the things stolne, though several-
ly, exceed the value of 12. pence,
and *Petit larceny*, is, when the
goods stolne exceed not the value
of 12. pence; hitherto *M. West.*
But he differeth from *Bracton lib.
3. tract. 2. ca. 32. nu. 1*. Of this see
more in *Stawnf. pl. cor. li. 1. ca. 15,
16, 17, 18, 19*.

Laghsite, is compounded of
(*lah. i. lex*) and (*sit. i. ruptum*)
and signifieth *multam rupta vel
violata legis*, *Lamb. explication of
Saxon words, verbo Multa*.

Last, is a Saxon word, signify-
ing a burden in generall, as also
particularly a certain weight: for
as we say a Last of hering, so they
say *Ein last cornes, last wines, &c.*
thence commeth Lastage, which
see in *Lastage*. A Last of hering
containeth ten thousand, anno 31.
Ed. 3. stat. 2. cap. 2. a Last of pitch
and tarre, or of ashes, containeth
14. barrells, anno 32. *H. 8. ca. 14*.
a Last of hides, anno 1. *Iac. cap.
33*. containeth 12. dozen of hides
or skins.

Latitat, is the name of a writ,
whereby all men in personall

actions are called originally to the Kings Bench, *Fitz. nat. brev. fol. 78. M.* And it hath the name from this, because in respect of their better expedition, a man is supposed to lurke, and therefore being served with this writ, hee must put in securitie for his appearance at the day, for *latitare, est se malitiosè occultare animo fraudandi creditores suos agere volentes. l. Fulcinus §. Quid sit latitare. c. Quibus ex causis in possessionem eatur*: But to understand the true originall of this Writ, it is to bee knowne, that in auncient time, whilest the Kings Bench was moveable, and followed the Court of the King, the custome was, when any man was to bee sued, to send forth a Writt to the Sheriffe of the County where the Court lay, for the calling him in: and if the Sheriffe returned, *Non est inventus in baliva nostra, &c.* then was there a second writ procured forth, that had these words, *(Testatum est eum latitare, &c.)* and thereby the Sheriffe willeth to attach him in any other place where hee might be found. Now when the tribunall of the Kings Bench came to be settled at *Westminster*, the former course of writ was kept for a long time, first sending to the Sheriffe of *Middlesex* to summon the partie, and if hee could not be found there,

then next to apprehend him wheresoever. But this seeming too troublesome for the subject, it was at last devised, to put both these writs into one, and so originally to attache the partie complained of upon a supposall or fiction, that hee was not within the Countie of *Middlesex*, but lurking else where, and that therefore hee was to be apprehended in any place else, where hee was presumed to lye hidden, by a writ directed to the Sheriffe of the Countie where hee is suspected to be. And by this writ a man being brought in, is committed to the Marshall of that Court, in whose custodie when hee is, then by reason hee is in the same Countie where the Kings Bench is, hee may be sued upon an action in that Court, whereas the originall cause of apprehending him, must be a pretence of some deceit or contempt committed, which most properly of old belonged to the cognizance of that Court. I have been informed, that the bringing of these actions of Trespasse so ordinarily to the Kings Bench was an invention of Councillers, that because onely Sergeants may come to the Common plees Barre, found a meanes to set themselves on worke in that Court. The forme of this writ is such: *Iacobus Dei gratia Anglie, Francia, Scotia, & Hi-*
bernie,

bernie, Rex, fidei defensor, &c. Vicecomiti Cantrabrigia salutem. Cum Vicecomiti nostro Middlesexie nuper praeceperimus, quod caperet Thomam T. & Willelmum W. si inventi fuissent in balliva sua, & eos salvo custodiret, ita quod haberet corpora eorum coram nobis apud Westminster die veneris proximo post octavas Sanctae Trinitatis, ad respondendum Roberto R. de placito transgressionis; cumq; vicecomes noster Middlesexie, ad diem illum nobis retinuerit, quod praedicti Thomas T. & Willelmus W. non sunt inventi in balliva sua, super quo ex parte praedicti Roberti in curia nostra coram nobis sufficienter testatum est, quod praedicti Thomas & Willelmus latitant & discurrunt in comitatu tuo. Idcirco tibi praecipimus quod capias eos, si inventi fuerint in balliva tua, & eos salvo custodias, ita quod habeas corpora eorum coram nobis apud Westminster, die Martis proximo post tres septimanas, eodem Trinitatis, ad respondendum praefato Roberto de placito praedicto, & habeas ibi tunc hoc breve. Teste Iohanne Popham apud Westminster. Roper.

Lauccogay, anno 7. Rich. secundi, cap. 13.

Law (lex) cometh of the Sax-on (lah) the generall signification is plaine, onely this I thought to note, that the law of this land

hath been variable. For first Dunwallo Mulmutius otherwise Molincius a Britaine, that being duke of Cornwall, reduced the whole land formerly severed by civill wars, into the state of a Monarchie, made certaine wholesome Lawes, which long after were called Mulmutius Lawes, and by Gylidas translated out of the British Tongue into Latine, Stow in his Annals, pag. 16. Of these there remaine yet certaine heads, recorded by our Historiographers, as followeth. 1. Ut Deorum templa, & civitates hominum consequantur tantam dignitatem, ne quis illo confugiens extrahi possit, antequam ab eo quem laeserat, veniam impetraverit. 2. Ut huiusmodi privilegium immunitatis habeant etiam ipsa, viae quae ducunt ad templa & ad urbes. 3. Imo & iumenta quoq; illa, quae rei rusticae subveniunt. 4. Deniq; colonorum aratra ipsa tali prerogativa libertatis perfruantur. 5. Hoc amplius, ut ne qua terra vacaret culturâ, neve populus inopia rei frumentaria premeretur, aut ea minueretur, si pecora sola occuparent agros qui ab hominibus coli debent. 6. Constituit quot aratra qualibet dioecesis haberet: ac poenam statuit iis, per quos ille numerus aratorum foret diminutus. 7. Item venit, bovem aratorem pro debito pecunie assignari debitoribus, si alia bona debitoris essent. Ita fore, ne compen-

dii causa homines pecuarii agros incultos redderent: sic etiam fore, ne quid earum rerum quas natura præbet, hominibus usquam deesse posset. Rich. *Vitus historiarum Britannia. lib. 3. nu. 1.* And of these lawes wee find no obscure remanets in our lawes now in use: See *Magna charta, ca. 1. & ca. 14.* See *Sanctuary.* See *Peace.* Then was there a law called *Merchenlage*, whereby the *Mercians* were governed, being a Kingdome in the heart of the land, containing those Countries, that be now called *Northampton shire, Leicester shire, Rutland shire, Lincoln shire, Nottingham shire, and Derby shire.* Camden *Britan. pag. 94.* whose power was great in the *Heptarchie* of the Saxons, untill at the last they were conquered by the West Saxons, and made subject to them. *Polydor. in Angl. Hist. lib. 5.* But whereas the name of these lawes savoureth of the Saxons time, it is reported by others that *Martia* a very learned Queene, and wife to *Quintelinus* a Britton King, was the author of them, long before the Saxons set foot in England. Rich. *Vitus. histo. Britan. li. 3. nu. 14.* who also saith that *Alfred* the Saxon King translated both these, and also those of *Mulmutius* into the *English* or *Saxon* tongue. Thirdly, there was the law of the West Saxons, called *West Saxen-*

lage, & the law of the *Danes*, whē they set foot into the realme, called *Denelage*. And of these lawes, *Edward* made one law, as some write, whereby he ruled hiskingdome. But *M. Camden ubi supra*, speaking nothing of *Mulmutius* lawes, saith out of *Gervasius Tiberiensiensis*, that of the other three *William* the Conquerour chose the best, and to them adding of the *Norman* lawes, such as hee thought good, he ordained lawes for our kingdome, which wee have at this present, or the most of them.

Law hath an especiall signification also, wherein it is taken for that which is lawfull with us, & not else where. As tenent by the courtesie of England, *an. 13. Ed. 1. ca. 3.* and againe, to wage law, *vadiare legem*: and to make law, *facere legem*: *Bract. lib. 3. tract. 2. cap. 37.* is to challenge a speciall benefit, that the law of this realm affordeth in certaine cases: wherof the first, *sc. vadiare legem*, is to put in security, that hee will make law at a day assigned, *Glanville, lib. 1. cap. 9.* and to make law, is to take an oath, that hee oweth not the debt challenged at his hand, and also to bring with him, so many men as the Court shall assigne, to avow upon their oath, that in their consciences hee hath sworne truly. And this law is used in actions of debt, without

without specialty, as also where a man comming to the Court, after such time, as his tenements for default, bee seised into the Kings hands, will denie himselfe to have beene summoned, *Glanville, lib. 1. cap. 9. & 12.* And see *Bracton ubi supra. num. 1. v. Kitchin, fo. 164.* See the new exposition of law Termes, *verbo (Ley)* this is borrowed from *Normandie*, as appeareth by the *Grand Customarie, cap. 85.* But *Sir Edward Cooke* saith, it springeth originally from the Iudiciall law of God, *lib. 4. of his reports. Slades case, fol. 95. b.* alleaging the 22. chapter of *Exodus*, verse 7. Whether so or not, the like custome is among the Feudists: by whom they that come to purge the defendant, are called (*Sacramentales.*) *libro feud. 1. titulo 4. Sect. 3. & titulo 10. & titulo 26.*

Law of armes (jus militare) is a law that giveth precepts and rule how rightly to proclaim war, to make and observe leagues, and truce, to set upon the enemy, to retire, to punish offenders in the Campe, to appoint Soldiers their pay, to give every one dignitie to his desert, to divide spoiles in proportion, and such like, for farther knowledge whereof, reade those that write *de jurr belli.*

Law day, signifieth a Lecture,

Cromptons Jurisd. fol. 160. and the county Court, anno 1. Ed. 4. cap. 2.

Lawles man, is he *quies extra legem*, *Bracton lib. 3. tract. 2. cap. 11. nu. 1.* See *Outlaw.*

Law of Marque, see *Reprisalles.* This word is used *anno 27. Ed. 3. stat. 2. cap. 17.* and groweth from the German word *March*. i. *limes*, a bound or limite. And the reason of this appellation is, because they that are driven to this law of reprisall, doe take the goods of that people of whom they have received wrong, and cannot get ordinary justice, when they can catch them within their owne territories or precincts.

Law Merchant, is a privilege or speciall law differing from the common law of England, and proper to Merchants and summary in proceeding, *anno 27. Ed. 3. stat. 8. 9. 19. & 20. anno 13. Ed. 1. stat. tertio.*

Lawing of dogs (expeditatio canum) See *Expeditate.* Mastifs must be lawed every three yeare. *Cromptons Jurisd. fol. 163.*

Lease (lessa) commeth of the French (*laysser. i. linguere, relinquere, omittre, permittre.*) It signifieth in our common law, a dimise or letting of lands or tenements or right of common, for of a rent or any hereditament

unto another, for terme of yeares or of life, for a rent reserved. And a lease is either written, called a lease by Indenture, or made by word of mouth, called a lease paroll. See the new Termes of the law. The party that letteth this lease, is called the Leassour, and the partie to whom it is let, the lessee. And a lease hath in it sixe points: *viz.* words importing a dimise, a lessee named, a commencement from a day certaine, a terme of yeares, a determination, a reservation of a rent, *Cooke vol. 6. Knights case, fol. 5. a.*

Leete (*leta*) is otherwise called a law day, *Smith de Republ. Anglor. lib. 2. cap. 18.* the word seemeth to have growne from the Saxon (*Lethe*) which as appeareth by the lawes of King *Edward* set out by *M. Lamberd, num. 34.* was a Court of Iurisdiction above the Wapentake or Hundred, comprehending three or foure of them, otherwise called *Thryhing*, and contained the third part of a Province or Shire. These Iurisdiccions one and other be now abolished, and swallowed up in the Countie Court, except they bee held by prescription. *Kitchin, fol. 6.* or charter in the nature of a franchise, as I have said in (*Hundred*) The libertie of Hundreds is rare, but many

Lords, together with their Courts Baron, have likewise Lectes adjoynd, and thereby doe enquire of such transgressions, as are subject to the enquire and correction of this Court: whereof you may reade your fill in *Kitchin*, from the beginning of his booke to the fift Chapter, and *Britton*, cap. 28. But this Court, in whose maner soever it bee kept, is accounted the Kings Court, because the authority thereof is originally belonging to the Crowne, and thence derived to inferiour persons, *Kitchin, fol. 6.* Iustice *Dyer* saith, that this Leete was first derived from the Sheriffes, *Turn. fol. 64.* And it enquireth of all offences under high treason, committed against the Crowne and Dignity of the King; though it cannot punish many, but must certifie them to the Iustices of Assise, *per Statut. anno 1. Ed. 3. cap. ult. Kitchin, fol. 8.* but what things bee onely inquirable, and what punishable, see *Kitchin* in the charge of a Court Leete, *fol. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20.* See also the Statute, *anno 8. Ed. 2.* The Iurisdiction of Bayliffes in the Dutchy of *Normandy*, within the compasse of their Provinces, seemeth to be the same, or very neare the same, with the power of our

Leete, cap. 4. of the grand Custumary.

Legacie (legatum) is a particular thing given by last will and testament. For if a man dispose or transerre his whole right or estate upon another, that is called *Hereditas* by the Civilians, and hee to whom it is so transferred, is termed *hares*. Howbeit our common Lawyers call him Heire, to whom all a mans lands and hereditaments doe descend by right of blood. See *Heire*. See *Hereditaments*.

Leproso amovendo, is a writ that lyeth for a Parish, to remove a Leper or Lazar, that thrusteth himselfe into the company of his neighbours, either in Church or other publicke meeting, and commeth with them to their annoyance or disturbance. *Regist. orig. fol. 267. Fitz. nat. br. fol. 234.*

Lastage, alias lastage, (lastagium) proceedeth from the Saxon word (*last. i. onus*) and is a custome chalenged in Faires and Markets, for carrying of things. *Rastals* Exposition of words: or a custome chalenged in cheapings or Faires. *Saxon* in the description of *England, cap. 11. Lastage anno 21. R. 2. cap. 18.* seemeth to be the Ballance of a ship. *Fleta* termeth it *Lesting*, saying, *quod significat acquietantiam Lestagii. lib. 1. cap. 47. §. Lesting.*

Letters of exchange, (litera Cambitoria, vel litera Cambii) *Regist. orig. fol. 194. n.*

Letters patents (litera patentes) bee writings sealed with the broad Scale of *England*, whereby a man is authorized to doe or enjoy any thing that otherwise of himselfe hee could not, *anno 19. H. 7. cap. 7.* And they bee so termed of their forme, because they bee open with the Scale hanging, ready to bee shewed for the confirmation of the authority given by them. If any will say, that letters patents may bee granted by common persons, I will not greatly contend. For I find that to bee true in *Fitz. nat. br. fol. 35. E.* Howbeit they bee called rather patents in our common speech, then Letters patents. Letters patents to make Denizens, *anno 32. Hen. 6. cap. 16.* yet for difference sake, the Kings letters patents bee called letters patents royall. *anno 2. Hen. 6. cap. 10.* There is likewise a writ patent. *Fitzh. nat. br. fol. 1. & seqq.*

Levarifacias, is a writ directed to the Sheriffe, for the levying of a Summe of money upon lands and tenements, of him that hath forfeired a recognizance, &c. *Regist. origin. fol. 298. b. & 300. b.*

Levari facias damna de disseisitoribus, is a writ directed to the Sheriffe, for the levying of dam-

dammages, wherein the dissei-
four hath formerly beene con-
demned to the disseisee. *Regist.*
fol. 214. b.

Levari facias residuum debiti, is
a writ directed to the Sheriffe,
for the levying of a Remanent of
a debt upon lands and tenements,
or chatels of the debtor, that
hath in part satisfied before, *Re-*
gist. orig. fol. 299.

Levari facias quando vicecomes
returnavit quod non habuit emptor-
es, is a writ commanding the
Sheriffe to sell the goods of the
debtor, which hee hath already
taken, and returned that hee could
not sell them, and as much more
of the debtors goods, as will sa-
tisfie the whole debt. *Register,*
orig. fol. 300. a.

Letter of Attourney (litera At-
turnatus) is a writing, authori-
zing an Attourney, that is, a man
appointed to doe a lawfull act in
our steedes, *West. part. prim. sym-*
bol. lib. 2. sect. 559. It is called
in the civile law (*mandatum*, or
procuratorium) There seemeth
to bee some difference betweene
a letter of Attourney, and a war-
rant of Attourney. For whereas
a letter of Attourney is suffici-
cient, if it bee sealed and delive-
red before sufficient witnesse: a
warrant of Attourney must bee
acknowledged and certified be-
fore such persons, as fines bee
acknowledged in the countrey,

or at the least before some Iustice
or Sergeant. *West. parte 2. symbol.*
titulo Recoveries. sect. 1. F. See
the statute, anno 7. R. 2. cap. 14.

Letters of Marque. See *Mar-*
que and law of *Marque.* See *Re-*
prisals. See *a. 14. Hen. 6. cap. 7.*

Letters patents of summons for
debt, anno 9. H. 3. cap. 18.

Levy (Levare commeth of the
french (*Lever. i. allevare, attollere*)
It is used in our common law,
for to set up any thing, as to le-
vie a mill. *Kitchin, fol. 180.* or to
cast up, as to levie a ditch. *Old.*
nat. br. fol. 110 or to gather and
exact, as to levie money. See *Le-*
vari facias.

Libell (Libellus) literally sig-
nifieth a little booke, but by use it
is the originall declaration of
any action in the civill law, *an. 2.*
Hen. 5. cap. 3. & anno 2. Ed. 6.
cap. 13. It signifieth also a crimi-
nous report of any man cast a-
broad, or otherwise unlawfully
published in writing, but then
for difference sake it is called an
infamous libell, *famosus libellus.*

Libello habendo. See *Copiali-*
belli deliberanda.

Libera Chafea habenda, is a
writ Iudiciall, granted to a man
for a free chace belonging to his
manner, after hee hath by a Jury
proved it to belong unto him.
Register Indiciall, fol. 36. & 37.

Liberate, is a warrant issuing
out of the Chancery to the Trea-
surer,

surer, Chamberlaines, and Barons of the Exchequer, or Clerke of the Hamper, &c. for the payments of any annuall pension or other summes granted under the broad Seale, *v. Broke, titulo Taile d'Exchequer. nu. 4. Reg. orig. fol. 193. a. b.* or sometime to the Sheriffe, &c. *nat. br. fol. 132.* for the delivery of any lands or goods taken upon forfeits of Recognisance, *Fitzh. nat. br. fol. 131, & 132. v. Core, li. 4. Fulwoods case, fo. 64. 66. & 67.* It is also to a Iayler from the Iustices, for the delivery of a Prisoner that hath put in baile for his appearance, *Lamb. Eiren. li. 3. ca. 2.*

Libertate probanda, is a writ that lieth for such as be challenged for Slaves, and offer to prove themselves free, to the Sheriffe, that hee take securitie of them for the proving of their freedom before the Iustices of Assise, and provide, that in the meane time they be quiet from their vexations, that challenge them for Slaves. *Fitzh. nat. br. fol. 77.* See *Nativo habendo*.

Libertatibus allocandis, is a writ that lieth for a Citizen or Burgesse of any Citie, that contrarily to the liberties of the Citie or Towne whereof hee is, is impleaded before the Kings Iustices, or Iustices errants, or Iustice of the Forest, &c. that refuseth, or deferreth to allow his privilege,

Orig. Regist. fol. 262. Fitzh. nat. br. fol. 229.

Libertatibus exigendis in itinere, is a writ, whereby the King willeth the Iustices in Eyre, to admit of an Attourney for the defence of another mans libertie, &c. before them, *Regist. orig. fol. 19. b.*

Libertas (libertas) is a privilege held by grant or prescription, whereby men enjoy some benefit or favour beyond the ordinarie subject. Liberties royall what they be, see in *Bratton, lib. 2. cap. 5. Broke hoc titulo.* See *Franchise*.

Librata terra, containeth foure Oxegangs, and every Oxegange 13. Acres, *Skeno de verb. signif. verbo Bovata terra.* See *Farding deale of land.*

Licence to goe to election, (*Licentia eligendi*, *Regist. fol. 294.*) See *Conge d'estire*.

Licence to arise, (*licentia surgendi*) is a libertie given by the Court to a tenent, that is essoined *de malo lecti* in a reall action. For the law is, that in this case hee may not arise out of his bed, or at least goe out of his chamber, untill hee have been viewed by Knights thereunto appointed, and so upon view of his sicknesse, have a day assigned him to appeare, or else lie untill hee be licensed by the Court to arise. And the reason of this is, as I

take it, because it may appeare, whether hee caused himselfe to be essoined deceitfully, yea or not: And therefore if the Demandant can prove, that hee be seene out of his chamber, walking up and downe his grounds, or else going abroad unto any other place, before hee be viewed or have license of the Court, hee shall be adjudged to be deceitfully essoined, and to have made default. Of this see *Bracton, lib. 5. tract. 2. cap. 7, 10, & 12.* and *Fleta, lib. 6. cap. 10.* Horne in his second booke of his mirrour, *cap. des Essoines*, saith, that the adverse party may grant *licentiam surgendi* to his adversarie thus essoined: And if hee will not, the King upon just cause, may.

Licentia surgendi, is the writ whereby the Tenant essoined *de malo lecti*, obtaineth libertie to rise. See *Licentia to arise*. See the *Register, fol. 8.*

Licentia transfretandi, is a writ or warrant directed to the keepers of the Port at Dover, &c. willing them to let some passe quietly over Sea, that hath formerly obtained the Kings license thereunto, *Reg. orig. fol. 193. b.*

Lieftenant (locum tenens) is a French word, signifying as much as (*Legatus*) it is compounded of (*Lien. i. Locum*) and (*tenir. i. tenere*). It signifieth with us, him that occupieth the Kings place,

or representeth his person, as the Lieftenant of the Kings of Ireland, *anno 4. H. 5. cap. 6.* so is it used, *anno 2, & 3. Ed. 6. cap. 2.* whence that Officer seemeth to take his beginning. But I read also in *M. Manwoods* first part of forest lawes, *pag. 113.* that the Lord chiefe Justice in Eyre of the forest: and the chiefe Warden also, have their Lieftenents in the forest. So that though a Lieftenant bee most ordinarie, and most properly used for the Deputie of the King: yet is it sometime extended to their Deputies that bee but Lieftenents to the King.

Lieftenant of the Ordnance, *anno 39. Eliz. cap. 7.*

Liege, (ligius) is a word borrowed from the Feudists, and hath two severall significations in our common law: sometime being used for Liege Lord, *anno 34, & 35. H. 8. cap. 1. & anno 35 ejusdem, cap. 3.* and sometimes for Liege man, *anno 10. R. 2. ca. unico. & anno 11. ejusdem, cap. prim.* Liege Lord is hee, that acknowledgeth no Superiour, *Duarenus in Comment. de Consuetudin. Feudorum, cap. 4. num. 3.* Liege man is hee, that oweth ligeancie to his Liege Lord. *M. Skene de verb. signif. verbo Ligeantia*, saith, that it is derived from the Italian word, (*Liga*) i. a Band, League, or Obligation, in whom reade more of this matter.

Ligeancie,

Ligeancie, is such a dutie or fealtie, as no man may owe, or beare to more then one Lord. *Idem, eodem. num. 4.* I find also this definition of *ligeancie* in the *Grand Customarie of Normandie*, cap. 13. *Ligeantia est, ex qua Domino tenentur vassalli sui contra omnes homines qui mori possunt & vivere, propriis corporis præbere consilii & auxilii iuvamentum, & eis se in omnibus innocuos exhibere, nec ei adversanti partem in aliquo confovere. Dominus etiam eosdem tenetur regere, protegere et defensare: eosq; secundum jura & consuetudines, et leges patriæ tractare:* this is otherwise called *legietas*, *Cassan. de Consuetud. Burgund. pag. 420, & 421.* this word is used in the statutes of our Realme: as the Kings liege people, anno 14. H. 8. ca. 2. Of the oath of *Ligeancie*, *Jacobutius de Franchis in præludio feudorum, ca. 2. nu. 138.* hath these words: *Præstatur hoc Ligeum Homagium in manibus Regis vel Imperatoris, genibus flexis, postis manibus junctis in manibus Domini, dicendo: Ego juro homagium tibi Dom. ut à modo sim homoligeus vester, contra omnem hominem, qui potest vivere: verba sunt pulchra Andr. de Ifern. in cap. 1. in verbo omnem. Colum. prima de nova forma fidelitatis: & hoc ligenum Homagium videmus præstari domino Regitanti: quia cum per id efficiatur homo solius illius, cui juratur,*

ut dixit Hostiensis in ca. ex diligenti. de Symon: alii non potest præstari. i. quia illius solius esse similiter non potest: non n. esse potest duorum in solidum l. si ut certo. §. si duobus vehiculum. & comodati, secundum And. in dicto cap. 1. §. omnem. & Bald. hic in 7. divis. & Alvar. in 13. divisione. Non ligenum verò dicitur, quando quis jurat fidelitatem Domino, excepta aliqua persona, viz. domino superiori, vel antiquiore: Hactenus Jacobutius. where you may reade more touching this point: as also in *Hoto-mans disputations de feudis, pag. 816. fol. 820. &c.*

Ligeance, (Ligeantia) See *Liege*. It sometime signifieth the Dominions or Territorie of the Liege Lord: as anno 25. Ed. 3. stat. 2. Children borne out of the *Ligeance* of the King.

Lierwit est multa adulteriorum, Fleta, li. 1. ca. 47. It is used for a libertie whereby a Lord challengeth the penaltie of one that lieth unlawfully with his bond woman. See *Lotherwit*.

Limitation of Assise (Limitatio assise) is a certaine time set down by Statute, within the which a man must alleage himselfe, or his Ancester to have beene seized of lands, sued for by a writ of Assise. See the statute of *Merton*, cap. 8. anno 20. H. 3. and *Westm. 1. ca. 38.* and anno 32. H. 8. ca. 2. & anno 1. M. 1. pag. ca. 5. See also

Theoloals digest of wrrus, lib. 10. cap. 2. So it is used in the *Old. nat. br. fol. 77.* in these words: The writ *de consuetudinibus et serviciis* lyeth, where I or mine Aunces- ters after the limitation of Af- fise, were not seised of the Cu- stomes, &c. But before the Li- mitation of Affise wee were sei- sed, &c.

Lindwood, was a Doctor of both Civill and Canon lawes, and Deane of the Arches; hee was Embassadour for *Henry* the fifth into Portingall, anno 1422. as appeareth by the Preface to his Commentarie upon the *Provin- cials.*

Littleton, was a lawyer of great account, living in the daies of *Ed- ward 4.* as appeareth by *Stawf. prerog. cap. 21. fol. 72.* He wrote a booke of great account, called *Littletons tenours*, which *Hottoman* in his Commentary *de verbis fen- dalibus, verb. Fœdum*, thus com- mendeth, *Stephannus Pasquarius excellenti vir ingenio, et inter Pari- senses causidicos dicendi facilitate præstans, libellum mihi Anglica- num Littletonum dedit, quo Fœdo- rum Anglicorum Iura exponuntur, ita inconditè, absurdè, et inconcinne scriptum, ut facile appareat verum esse, quod Polidor. Virgilius in An- glica historia scribit, stultitiam in eo libro cum malitia et calumnian- di studio certare.*

Litera ad faciendum attornatum

pro secta facienda: see in the Reg. originall, fol. 172. Litera de annua pensione, eodem 266. & 307. Litera patens ac faciendum generalem at- tornatum quia infirmus, eodem, fo. 21. Litera per quam dominus re- mittit Curiam suam Regi, eodem, fol. 4. Litera de requestu, eodem fo. 129. Litera Canonici ad exercen- dam jurisdictionem loco suo, fo. 305. Litera patentes ad conferendum beneficia, domino in remotis agente, fol. 305. Litera ad innotescendum recuperationem Regis de ecclesia omnibus quorum interest, fol. 305. Litera patentes Regis quod Ab- bas ad totam vitam suam possit facere Attornatos generales, fol. 21. Litera procuratoria, fol. 205. 306. Litera Regia deprecatoria pro annua pensione, fol. 307. All these you may see in their pla- ces, and understand the meaning of them, as occasion shall re- quire.

Liverie (Liberatura) is drawne from the French (*livre* i. insigne, gestamen, Centuriale discrimen, nota senturialis, iurmalis) or else from (*livrer*, i. tradere) and ac- cordingly hath three significati- ons. In one it is used for a Suite of cloath or other stuffe, that a Gentleman giveth in Coates, Cloakes, Hats or Gownes, with cognisance or without, to his ser- vants or followers, anno 1. Rich. 2. cap. 7. & anno 20. *ejusd.* cap. 1. & 2. & anno 7. *H. 4.* cap. 14. &

anno 8. Ed. 4. cap. 2. & anno 7. ejusdem, cap. 14. & anno 13. ejusdem, ca. 3. & an. 8. H. 6. ca. 4. & anno 8. Ed. 4. cap. 3. & anno 3. H. 7. ca. 1. & 12. & anno 11. ejusdem, ca. 3. & anno 19. ejusdem, cap. 14. In the other signification, it betokeneth a delivery of possession unto those tenents, which hold of the King in *Capite*, or in Knights service: for the King by his prerogative hath *primer seysins*, (or the first possession) of all lands and tenements so holden of him, anno 3. H. 3. cap. 16. & anno 17. Edw. 2. cap. 3. that is, when any such tenant dyeth, the King forthwith entreth, and holdeth it untill the Heire doe his homage, and so pray his land to bee delivered unto him. Which act in the King is called *Liverie*: and *Livery* in this signification is either generall or speciall. *Stam. prarog. fol. 12. & cap. 3.* *Liverie* generall seemeth to bee that, which is made in generall words, and therefore may easily bee misued. *Liverie* speciall is that, which containeth in it a pardon of over-sights committed by the Tenent in siewing out his *liverie*, by which pardon the misuing is dispensed with. *Stamf. pag. 67. cap. Travers. 20.* See the Institutes and grounds of the Common law, cap. 30. of generall and speciall *Liveries*. *Liverie* in the third signification is the writte

which lyeth for the heire to obtaine the possession or seisin of his lands at the Kings hands: which see in *Fitz. nat. br. fol. 155.*

Liverie of seisin (*deliberatio seisina*) is a delivery of possession of land or tenement, or other things corporeall (for of things incorporeall no *liverie of seisin* may be) unto one that hath right or a probability of right unto them. For as *Brañton* saith: *Traditio debet esse vestita & non nuda, sc. quod traditione precedat vera causa vel putativa, qua transeat Dominium. lib. 2. cap. 18. nu. 3. West. parte prim. symbol. lib. 2. sect. 196.* calleth this a Ceremony in the common law, used in the conveyance of lands or tenements, &c. where you may see the usuall forme hercof particularly set downe, whereunto joyned the new Exposition of law tearmes.

Lieutenant. See *Lieftenant.*

Lieutenant of the Tower, seemeth to have beene an officer under the Constable, anno *Henr. 4. cap. 15.*

Locus partitus, signifieth a division made between two townes or counties, to make triall in whether the land or place in question lyeth. *Fleta lib. 4. cap. 15. num. 1.*

Locall (*localis*) signifieth in our common law, as much as tyed or annexed to a place certaine: Example: the thing is lo-

call, and annexed to the Freehold: *Kitchin, fol. 180.* And againe in the same place: An action of Trespasse for batterie, &c. is transitorie, and not locall: that is, not needfull that the place of the batterie should be set downe as materiall in the declaration: or if it be set downe, that the Defendant should traverse the place set downe, by saying, hee did not commit the batterie in the place mentioned in the declaration, and so avoid the action. And againe, *fol. 230.* the place is not locall: that is, not materiall to be set downe in certaintie. And the gard of the person, and of the lands differeth in this, because the person being transitorie, the Lord may have his *Ravishment de gard*, before hee be seised of him, but not of the land, because it is locall. *Perkins Grannts. 30.*

Lobbe, is a great kind of north Sea fish, *anno 31. Ed. 3. stat. 3. cap. 2.*

Lodemanage, is the hire of a Pilot for conducting of a Ship from one place to another.

Loichfish, as *Lob, Ling, Cod*, *anno 31. Ed. 3. stat. 3. cap. 2.*

Lodeworks, is one of the works belonging to the Stannaries in *Cornwall*: for the which reade *M. Camd. Brit.* in his title of *Cornwall*, *pa. 119.* See *Stremework*.

Lollards (*Lollardi*) were in

account and reputation of those times, Hereticks that abounded here in England, in the daies of *Edward the third*, and *Henry the fifth*, *anno 2. H. 5. cap. 7.* whereof *Weeklese* was the chiefe, as *Stow* saith in his *Annals*: *pag. 425.* who by his report, went bare-footed, and basely cloathed; to wit, in base Russet garments downe to the heeles: they preached, & especially against Monks and other religious men. Of these reade more in him, and others that writ of those times. The name *Lindwood* deriveth a *Lolio*: *quia sicut lolium inficit segetes: sic Lollardi multociens inficiunt fideles simplices inter quos conversantur.* in *ca. finali. de Hereticis verbo Lollardie*. but *Tritemius* in his Chronicle, deduceth the name from one *Gualter Lolbard* a German, as the first author of that Sect, living about the yeare of our Redemption, 1315.

Lord (*Dominus*) by *M. Camdens* opinion, is a contract (of *Lafford*) which is the Danish word for *Dominus*. It is a word of honour with us, and is used diversly. Sometime being attributed to a man, that is noble by birth or creation, which sort are otherwise called Lords of the Parliament. Sometime to those that be so called by the courtesie of England, as all the Sons of a Duke, or the eldest Son of an Earle.

Earle. Sometime to men honourable by Office, as Lord Chiefe Iustice, &c. and sometime to a meane man that hath fee, and so consequently the homage of tenants within his Manor. For by his Tenants he is called Lord, and by none other, and in some places for distinction sake, hee is called Landlord. It is used nevertheless by the Writers of the Common Lawe, most usually in this signification. And so is it divided into Lord above, and Lord meane: Lord meane, is he that is owner of a Manor, and by vertue thereof hath Tenants holding of him in fee, and by copy of Court Rolle, and yet holdeth himselfe over a Superiour Lord: who is called Lord above, or Lord Paramount, *Old nat. br. fol. 79.* Although I thinke none simply to be accounted Lord Paramount, but the Prince: because all hold either mediately or immediately of him, and hee of none. In this signification I likewise reade Very Lord, and Very Tenent, *eodem, fol. 42. & Broke titulo Heriot. num. 1.* where (I thinke) Very Lord, is hee which is immediate Lord to his Tenent: and him to bee Very Tenent to that Lord, of whom hee immediately holdeth. So that if there be Lord above, Lord meane, and Tenent, the Lord above is not Very Lord to the tenent; nor the tenent

very tenent to the Lord above.

Lord in grosse, Fitzh. nat. br. fol. 3. is hee that is Lord, having no Maner, as the King in respect of his Crowne, *Idem, fol. 5. F.* See him also, *fol. 8. A. B.* where I find a case wherein a private man is Lord in grosse; viz. a man maketh a gift in taile of all the land hee hath, to hold of him, and dieth: his heire hath but a Seignorie in grosse.

Loriners, anno 1. R. 2. cap. 12. is one of the Companies in London, that maketh bits for bridles of horses, and such like. The name seemeth to be taken from the Latine (*Lorum*) and is else where written *Loriners*.

Lothemit, aliàs Legermit, is a libertie, or priviledge to take amends of him that defileth your Bond woman without license: *Rastals* exposition of words. It is an amends for lying with a Bond woman. *Saxon* in his description of England, *cap. 11.* Some thinke it should be rather written (*Legermit*) For (*Leger*) is the Saxon word for a bed, or (*Loghermit*) of the old word (*Logher*) being of the same signification. See *Bloodmit* and *Ljermit*.

Lusernes. See *Furre*.

Lusoborow, is a base coine used in the daies of King *Edward* the third, coined beyond Seas, to the likeness of English money; and brought

brought in to deceive the King and his subjects. To avoid the which, it was made Treason for any man wittingly to bring in any such, *anno 25. Edw. 3. stat. 4. cap. secundo.*

M A

M *Acegriefs, aliàs Macegrefs,* be such as willingly buy and sell stolen flesh, *Britton, cap. 29. fo. 71. b. Cromptons Iustice of peace, fol. 193. a.*

Magna assisa eligenda, is a writ directed to the Sheriffe, to summon foure lawfull Knights before the Iustices of Assise, there upon their oathes to chuse twelve Knights of the vicanage, &c. to passe upon the great Assise betweene *A. Plaintiffe*, and *B. Defendant*, &c. *Register originall, fol. 8. a.*

Magna Charta, called in English the great Charter, is a Charter containing a number of Lawes ordained the ninth yeare of *Henry the third*, and confirmed by *Edward the first*. The reason why it was tearmed *Magna Charta*, was either for that it contained the summe of all the written Lawes of England; or else, that there was another Charter called the Charter of the Forest, established with it, which in quantitie was the lesser of the two. I reade

in *Holinshed*, that King *John*, to appease his Barons, yielded to Lawes, or Articles of Government, much like to this great Charter; but wee now have no ancienter written Law, then this, which was thought to be so beneficiall to the subject, and a law of so great equitie, in comparifon of those which were formerly in use, that King *Henry the third* was thought but hardly to yield unto it, and that to have the fifteenth penie of all the moveable goods, both of the Spiritualltie and Temporalltie throughout his Realme. *Holinshed* in *Henry the third*. And though this Charter consist not of above thirtie seven Chapters or Lawes: yet is it of such extent, as all the Law wee have, is thought in some sort to depend of it. *Polydorus* and *Holinshed*, *ubi supra.*

Mahim (*Mahemium*) cometh of the old French (*Mehaigne*) as *M. Skene* saith, *de verbor. significat. verbo Machanum*, and significeth a corporall hurt, whereby a man looseth the use of any member, that is, or might be any defence unto him in battell. The Canonists call it *Membris mutilationem*, as the eye, the hand, the foot, the scalpe of the head, his fore-tooth; or, as some say, of any finger of his hand, *Glanville, lib. 14. cap. 7. See*

Bracton at large, *lib. 3. tractat. 2. cap. 24. num. 3.* and *Britton cap. 25.* and *Stamf. pl. cor. lib. prim. ca. 41.* and the newe exposition of Lawe Termes, and the Mirrour of Iustices, *cap. d' homicid.* The grand Customary of *Normandie, cap. 6.* calleth it; *Mahaignum*, and defineth it to bee *Enormem lasionem*. All agree that it is the losse of a member, or the use thereof. And *membrum*, as *Cassan: de consuetu. Burgund. pag. 168.* defineth it out of *Baldus, Est pars corporis habens destinatam operationem in corpore*; where you may reade more of this point. But if you will see it largely discussed, looke *Vgolinus de irregularitatibus, ca. 4. §. 3. 4. 5.* also reade *M. Skene ubi supra.*

Mainour, alias *Manour*, alias *Meinoure*, seemeth to come of the French (*Manier. i. manu tractare, attrahere*) or else of (*Amenner. i. abducere.*) It signifieth in our common law, the thing that a theefe taketh away or stealeth: as to bee taken with the *mainor. pl. cor: fol. 179.* is to bee taken with the thing stolen about him: and againe, *fol. 194.* It was presented that a theefe was delivered to the Vicount together with the *Mainor*: and thirdly, *fol. 186.* If a man be indite thard hee feloniously stole the goods of another, where, in truth, they bee his owne goods,

and the goods bee brought into the Court as the manour, and it bee demaunded of him, what hee saith to the goods, and hee disclaime them: though hee be quitted of the felonie, hee shall loose the goods, and againe, *fol. 149.* If the defendant were taken with the manour, and the manour bee carried to the Court, they in auncient times would arraine him upon the manour, without any appeale or inditement. I find this word used in the *old. nat. br. folio 110.* in this sort: where a man maketh a thing by *mainour*, or *levying*, or *estopping*, in such case hee shall haue Assise, where it signifieth handy labour, and is but an abbreviation of *Main-ourey.*

Mainouro, see *Minoverge.*

Mainprise (*Manu capio*) is compounded of two French words (*Main. i. manus*) & (*pris. i. capus*) which is a participle of the verbe (*prendre. i. capere, excipere, captare*) It signifieth in our common law, the taking or receiving a man into friendly custody, that otherwise, is or might bee committed to the mercie of the prison, upon securitie given for his forth coming at a day assigned: as to let one to *mainprise*, *old. nat. br. fol. 42.* is to commit him to them, that undertake his appareance at

the time appointed. And they that doe thus undertake for any, are called *Mainpernours*, because they doe receive him into their hands, *pl. cor. fol. 178.* Of this sort is the word (*Mainpernable*) which signifieth him that hath committed such an offence, as by law hee may be thus bailed. For in many cases a man is not *mainpernable*: wherof see *Broke, titulo Mainprise, per totum.* and *Fitzh. nat. br. fol. 249. & seqq. M. Manwood* in the first part of his *Forest lawes, pag. 167.* maketh a great difference betweene Baile and Mainprise. For hee that is mainprised (quoth he) is alwaies said to be at large, and to goe at his owne libertie out of ward, after the day is set to Mainprise, untill the day of his appearance, by reason of the said common summons, or otherwise. But otherwise it is, where a man is let to baile to foure or two men, by the Lord Iustice in *Eyre* of the forest, untill a certaine day. For there he is alwaies accounted by the law to be in their ward and custodie for the time. And they may, if they will, keepe him in ward, or in prison all that time, or otherwise at their will. So that he that is so bailed, shall not be said by the law to be at large, or at his owne libertie. Thus far *Master Manwood.* The mirrour of Iustices maketh a difference also be-

tween pledges and Mainpernours, saying, that Pledges are more generall, and that Mainpernours are bodie for bodie, *lib. 2. cap. de trespassse venial.* and *lib. 3. cap. des pledges & mainpernours.* When Mainprises may be granted, and when not, see *Cromptons* Iustice of peace, *fol. 136. & c. usque 141.* and *Lamberd. Eiren. lib. 3. cap. 2. pag. 336, 337, 338, 339, 340.* See also *Britton, fol. 73. a. cap. Des pledges & mainpernours.* The Author of the *Mirrour of Iustices* saith, that Pledges be those, that baile or redeeme any thing but the bodie of a man; and that Mainpernours be those, that free the bodie of a man. And that Pledges therefore belong properly to reall and mixt actions, and Mainpernours to personall.

Maintenance (*manutentio vel manutentia*) is a French word, and signifieth an upholding of a cause or person, metaphorically drawne from the succouring of a young child, that learneth to goe by ones hand. In our common law, it is used in the evill part, for him that secondeth a cause depending in suit betweene others, either by lending of monie, or making friends for either partie, toward his help. *anno 32. Henric. 8. cap. 9.* And when a mans act in this kind is by Law accounted Maintenance,

nance, and when not, see Brooke, *titulo Maintenance*: and *Kitchin. fol. 202. & seqq.* and *Fitzh. nat. br. fol. 172.* and *Cromptons Iurisd. fol. 38.* The Writ that lyeth against a man for this offence, is likewise called *Maintenance*. *Termes of the Law, verbo Maintenance*. Speciall *Maintenance Kitchin. fol. 204.* seemeth to bee maintenance most properly so tearmed. Of this see *Cromptons Iustice of Peace. fol. 155. b.* and the new Booke of Entries. *verbo, Maintenance*. Maintenance, *vide Novos terminos Iuris.*

Make, (facere) signifieth in the Common Law, to performe or execute: as to make his Law, is to performe that Law which hee hath formerly bound himselfe unto, that is to cleare himselfe of an Action commenced against him by his oath, and the oathes of his Neighbours. *Old. nat. br. fo. 161. Kitchin fol. 192.* which Law seemeth to bee borrowed of the Feudists, who call these men that come to sweare for another in this case, *Sacramentales*. Of whom thus saith *Hotoman in verbis feudal. Sacramentales à Sacramento. i. juramento dicebantur ij, qui quamvis rei, de qua ambigebatur, testes non fuissent, tamen ex ejus, cujus res agebatur, animi sententia, in eadem qua ille verba jurabant: illius videlicet probitate & innocentia confisi. Nam tum de-*

man adhibebantur, cum testes nulli exsarent. See the rest. The formall words used by him that maketh his lawe, are commonly these: *Hearc, O ye Iustices, that I doe not owe this summe of money demanded, neither all nor any part thereof, in maner and forme declared, to helpe mee God, and the contents of this Booke. To make services or custome, is nothing else but to performe them. Old. nat. br. fol. 14.* To make oath, is to take an oath.

Maletent, in the Statute called the Confirmation of the liberties of &c. anno 29. *Ed. prim. cap. 7.* is interpreted to be a tolle of 40. thillings for every sacke of Wooll. *Scow* in his Annals calleth it a *Maletot*, pag. 461. See also the Statute (*de Tallagio non concedendo*) anno 35. *ejusd. stat.*

Malin. See *Marle.*

Manbote, signifieth a pecuniary compensation for killing of a man. *Lambard* in his exposition of Saxon words, *verbo Aestimatio*. Of which reade *Roger Hoveden* also, in parte poster, *suorum annal. folio 344 a. b.*

Mandamus, is a writ, that lyeth after the yeare and day, whereas in the meane time the writ called (*diem clausit extremum*) hath not beene sent out to the Excheatour, for the same purpose, for the which it should formerly have beene sent forth. *Fitzh. nat.*

br. fol. 253. B. See *Diem clausit extremum*. *Mandamus* is also a charge to the Sheriffe, to take in to the Kings hands, all the lands and tenements of the Kings widow, that against her oath formerly given, marrieth without the Kings consent, *Register, fol. 295. b.* See *Widow*.

Mandatum, is a commandment judiciall of the King, or his Iustices, to have any thing done for the dispatch of justice, whereof you shall see diversitie in the Table of the Register judiciall. *verbo Mandatum.*

Maner (*Manerium*) seemeth to come of the French (*manoir. i. domicilium, habitatio*) *M Skenede verbo, significatione, verbo Manerium*, saith it is called *Manerium, quasi Manurium*, because it is laboured with handie worke by the Lord himselfe. It signifieth in our common law, a rule or government, which a man hath over such as hold land within his fee. Touching the originall of these maners, it seemeth that in the beginning, there was a certaine compasse or circuite of ground, granted by the King unto some man of worth (as a Baron or such like) for him and his heire to dwell upon, and to exercise some jurisdiction more or lesse within that compasse, as hee thought good to grant, performing him such services, and

paying such yearely rent for the same, as hee by his grant required: and that afterward this great man parcelled his land to other meaner men, injoyning them againe such services and rents, as hee thought good, and by that meanes, as hee became tenent to the King, so the inferiours became tenents unto him. See *Perkins Reservations* 670. and *Andrew Horns Booke* intituled the mirrour of Iustices, li. 1. ca. du. *Roy Alfred*. See the definition of a Maner. *Falbe, fol. 18.* And this course of benefiting or rewarding their nobles for good service, have our Kings borrowed from the Emperours of Rome, or the Lombard Kings; after they had settled themselves in Italy, as may well appeare by *Antonius Contius in methodo feudorum, ca. 1. de origine, & Libris Feudorum*. And I find, that according to this our custome, all lands holden in fee throughout France, are divided into *Fiefz* and *arrierfiefz*: whereof the former are such as are immediately granted by the King, the second such as the Kings feudataries doe againe grant to others, *Gregorii Syntagm. lib. 6. ca. 5. m. 3.* But the inconstancie of mans estate, and the mutability of time hath brought to passe, that those great men, or their posteritie, have alienated these Mansions, and lands so given them

them by their Prince, and others that had none, have by their wealth purchased many of them: And againe, that many for capitall offences, have forfeited them to the King, and that thereby they still remaine in the Crown, or are bestowed againe upon others: so that at these daies many be in the hands of meane men, such as by their skill in Law, or Phisicke, by Merchandise, Grazing, or such other good husbandrie, have gathered wealth, and inabled themselves to purchase them of those, that by discent received them from their ancestors in greater abundance, then wit to keepe them. But whosoever possesseth these maners, the libertie belonging unto them is reall and prediall; and therefore remaineth still, though the owners be changed. In these daies a Maner rather signifieth the Iurisdiction and royaltie incorporeall, then the land or site. For a man may have a maner in grosse (as the law termeth it) that is, the right and interest of a Court Baron, with the perquisites thereunto belonging: and another or others have every foot of the land thereunto belonging. *Kitchin, fol. 4. Broke hoc titulo per totum. Bracton, lib. 4. ca. 31. nn. 3.* divideth *manerium*, in *capitale* & *non capitale*. See *Bracton, lib. 5. tractat. 5. ca. 28. nn. pri.* See *Fec.*

The new expositor of Law terms saith, that Manour is a thing compounded of divers things, as of a house, land carable, pasture, meadow, wood, rent, advouzen, Court Baron, and such like. And this ought to be by long continuance of time, to the contrary whereof mans memory cannot discern, &c.

Mansion (*Manfio*) as *Bracton* defineth it, *lib. 5. cap. 28. nn. pri.* is a dwelling, consisting of one or more houses, without any neighbour. And yet hee granteth forthwith, that *Manfio Mansioni possit esse vicinata*. I find it most commonly used for the Lords chiefe dwelling by use within his fee, whether it have neighbours adjoyning or not, otherwise called the capitall mesuage. *Bracton, li. 2. ca. 26.* or the chiefe Maner place. *Manfio* amongst the ancient Romans, was a place appointed for the lodging of the Prince, or Soldiers in their journey, furnished with convenient entertainment by the neighbours adjoyning. And in this sence wee reade *primam mansionem*, for the first nights lodging, and so in order. It is probable that this word (*Manfion*) doth in some construction signifie so much land, as *Beda* calleth *Familiam* in his Ecclesiasticall History. For Master *Lamberd* in his explication of Saxon words, *verb. Hida*

terra, saith, that that which hee calleth *familiam*, others thence call *Manentem* vel *Manfam*. (*Manfus* and *Manfum*) I reade of in the Feudists, which as *Hottoman* saith, in *verbis feudalibus*, *est neque domus, neque area, neque hortus, sed ager certi modi ac mensura*. And againe, in *Commentariis feudorum*, lib. p. tit. 4. vers. de *Manfo*. *Agri deserti et inculti certa mensura dabantur cultoribus quasi in emphyteusim, ut culti & meliorati, feudi jure à vassallis possiderentur. In contractu autem vassalli nonnunquam incrementum, i. meliorationem omnem sibi recipiebant, sive per culturam, sive per inaedificationem ea melioratio fieret, &c.* And *Cassanans de consuet. Burg.* pag. 1195. defineth it thus: *Manfus est, quantum quis cum uno pari bovm laborare possit*, proving it out of *Bartolus*, in lib. si ita. w. de auro et argen. legato: in fine legis. Reade *M. Skene de verb. signif. verbo Manfus*. I reade the latine word (*Manfia*) in the same signification, as namely in the charter granted by King *Kanulphus* to *Ruchin* the Abbot of *Abingdon*, which *Sir Edward Cooke* setteth downe in his booke *de jure Regis ecclesiastico*.

Manslaughter (*Homicidium*) is the unlawfull killing of a man, without premeditated malice: as when two, that formerly meant no harme one to the other, meet

together, and upon some sodaine occasion falling out, the one killeth the other, *West. part. 2. symb. titulo Inditementis, sect. 44.* It differeth from murder, because it is not done with foregoing malice: and from chance-medly, because it hath a present intent to kill. And this is felony, but admitteth Clergie for the first time. *Stawnf. pl. cor. lib. 1. cap. 9.* and *Briston cap 9.* It is confounded with murder in the statute, anno 28. Ed. 3. cap. 11.

Martyle (*Mantile*) cometh of the French (*Manteau*) and signifieth with us a long roab, anno 24. Hen. 8. cap. 13.

Manucaprio, is a writ that lyeth for a man, who taken for suspicion of felony, and offering sufficient Bayle for his appearance, cannot bee admitted thereunto by the Sheriffe, or other having power to let to mainprise. *Fitzh. nat. br. folio 249.* See *Mainprise*. How diversly it is used, see the *Register originall*, in the table.

Manuel (*Manualis*) is a thing whereof present profit may be made, *Stawnf. prerogat. fol. 54.* And a thing not manuell is that, whereof no present profit may be made, but hereafter, when it falleth, *ibid.*

Manumission (*Manumissio*) is a freeing of a villein or slave out of his bondage. The forme of this

this in the time of the Conquerour, M. Lamb. in his *apxuroquia*. fol. 126. setteth downe in these words: *Si quis velit servum suum liberum facere, tradat eum vicecomiti, per manum dexteram, in pleno comitatu, & quietum illum clamare debet à iugo servitutis sue per manumissionem: & ostendat ei liberar portas, & vias, et tradat illi libera arma, scilicet lanceam & gladium: et deinde liber homo efficitur.* Some also were wont to be manumitted by Charter of Manumission. vide Broke, titulo Villenage, fol. 305. The new expositor of Law Termes maketh two kinds of Manumission: one exprested, another implied. Manumission exprested is, when the Lord maketh a deed to his villein to infranchise him by this word (*Manumittere.*) The manner of manumitting in old time was thus: The Lord in presence of his neighbours tooke the bond man by the head, saying: I will that this man be free; and therewith shoved him forward, out of his hands. Manumission implied, is, when the Lord maketh an obligation for payment of monie to him at a certaine day, or sueth him, where hee might enter without suite, or granteth him an Annuitie, or leaseth Land unto him by deed, for yeares, or for life, and such like.

Manutenentia, is the writ used in case of maintenance, Register originall, fol. 182. & 189. See Maintenance.

Marches (*Marchia*) be the bounds and limits betweene us and Wales, or betweene us and Scotland, anno 24. Hen. 8. cap. 9. Camd. pag. 453, & 606. and the marches of Scotland are divided into west and middle marches, anno 4. Hen. 5. cap. 7. & anno 22. Edw. 4. cap. 8. It seemeth to be borrowed from the German (*March. i. limes*) Camden, Britan. pag. 27. or it may be from the French (*Marque. i. signum*) being the notorious distinction of two divers Countries or Territories. It is used in the Statute anno 24. H. 8. ca. 12. generally for the Precincts of the Kings Dominions.

Marchers, be the noble men dwelling on the Marches of Wales or Scotland: who in times past (as M. Camden saith, pag. 453.) had their private lawes, much like, as if they had bene Kings, which now bee worne out. Of these Marchers you may reade, anno 2. H. 4. cap. 18. & anno 26. H. 8. ca. 6. & anno 1. Ed. 6. cap. 10. where they are called Lord Marchers. See anno 27. H. 8. cap. 26. how these were extinguished.

Marshall (*Mariscallus*) is a French word, signifying as much

as *Tribunus Celerum*, or *Tribunus militum* with the auncient Romanes, or *Πολέμαρχος* with the Grecians, or *ἱππαρχος* *Tiraquel de Nobilitate*, ca. 8. p. 42. nu. 17. The french word may seeme also (among many other that they haue, to proceede from the German *Marschalk*, i. *equitum magister*, which *Hotoman in verbis feudilibus*, verbo *Marschaleus*, deriveth from the old word (*March*) signifying a house, with whom agreeth *Lupanus*, de *Magistratibus Francia*, lib. pri. ca. *Marschallus*. Others make it of these two Saxon words. (*Mar*. i. *equus*, and *scalch*. i. *præfectus*) or as *M Versteegan* saith, from (*Mare*) the generall appellation of all horses, as (*hors*) is now in English, and (*Scalc*, which, in the auncient language of the Netherlanders, hee affirmeth to signifie a kind of servant, as *Scalco*, doth at this day among the Italians, being originally a *dutch* word, with us there be divers officers of this name: but one most noble of all the rest, who is called Lord or Earle Marshall of England, of whom mention is made in divers statutes, as *anno 1. H. 4. ca. 7. & 14. & anno 13. Rich. 2. cap. 2.* His office consisteth especially in matters of warre and armes, as well with us as in other countries: whereof you may reade in *Lupanus ubi supra*, and *Tilius*, lib. 2. ca. de Co-

nestabili, *Mariscallo*, &c. But hee that will know the office of our Lord Marshall, had need beside the few statutes which concerne him, to read his Commission, and also to have accessse to the Herald's, who out of their antiquities are able to discover much, that by prescription belongeth unto this office. The next to this is the Marshall of the Kings house, whose especiall authority is, according to *Britton* and *M. Gwin*, in the preface to his reading, in the Kings place to heare and determine all plects of the Crowne, and to punish faults committed within the verge, and to heare and determine suites betweene those of the Kings household, and others within the verge, *Cromptons Inrid fol 102.* of him you may reade *Fitzh. nat. br. folio 241. B.* and *anno 18. Ed. 3. stat. 2. cap. 7. & anno 27. Ed. 3. stat. 2. ca. 6. & anno 2. H. 4. c. 23. & a. 15. H. 6. c. 1.* *Fleta* saith, that the office of the Marshall of the Kings house belongeth to the Earle of *Northf.* in fee, and that hee may appoint (with the Kings consent) a Knight under him to execute the office, which office hee also describeth to bee especially to execute the judgements and decrees of the Steward, and to have the keeping of the prisoners, *li. 2. ca. 4.* and reade farther of his office in the fift chapter of

of the laid Booke, which is to dispose of the Lodging in the Kings household under the Chamberlaine, and to cleere the Verge of Strumpets, &c. *anno 5. H. 3. stat. 5.* Then be there other inferiour officers of this name: as Marshall of the Iustices in *Eyre*, *anno 3. Ed. 1. ca. 19.* Marshall of the Kings Bench, *anno 5. Ed. 3. ca. 8.* and this is hee which hath the custodie of the prison, called the Kings Bench in *Southwarke*, *Fitzherb. nat. brev. fol. 251. I.* And these inferiour Marshalls be either *ad placitum*, or in fee, *Kitchin, fol. 143.* I find also in *Fleta, lib. 2. cap. 15.* mention of a Martiall of the Kings Hall, whose office is, when the tables be prepared, and clothes laid, to call out both those of the household and strangers, according to their worth, and decently to place them, to reject unworthie persons, to know the number of the Hall, and to testifie it at the next account, to see dogs kept out, to save the almes from filching, to see silence kept, and every man competently served with meate and drinke, and when the Court removeth, to appoint every one of the household his lodging. There is also a Marshall of the Eschequer, *anno 51. H. 3. stat. 5.* to whom the Court committeth the custodie of the Kings debtors during the Terme time, to the

end they may be farther imprisoned, if they cleere not their debts. He also assigneth Sheriffes, Escheators, Customers, and Collectors, their Auditours before whom they shall account. Hee hath all inquisitions taken before Escheatours *virtute officii*, delivered unto him, to be delivered by him to the Treasurers Remembrancer.

Mareshalsee (Marescallia) is the Court of the Marshall, or (word for word) the seat of the Marshall; of whom see *Cromptons jurisd. fol. 102.* It is also used for the prison in *Southwarke*, the reason whereof may be, because the Marshall of the Kings house, was wont perhaps to sit there in Iudgement. See the statute, *anno 9. Ric. 2. ca. 5. & anno 2. Hen. 4. cap. 23.*

Martiall law, is the law that dependeth upon the voice of the King, or the Kings Lieutenant in warres. For howbeit, the King for the indifferent and equall temper of lawes to all his subjects, doe not in time of peace make any lawes, but by the consent of the three estates in Parliament: yet in wars, by reason of great dangers rising of small occasions, he useth absolute power: in so much as his word goeth for Law. And this is called Martiall law, *Smith de Repub. Angl. li. 2. ca. 3.* See *Law of Armes.*

Mariage (Maritagium) signifieth not onely the coupling together of man and wife, but also the interest of bestowing a ward or a widow in mariage. *Magna charia, cap. 6. anno 9. Hen. 3.* and *Bracton, lib. 2. cap. 3.* and also it signifieth land given in mariage, *Bracton, lib. 2. cap. 34. & 39.* And in this signification the same Author saith, that *Maritagium est aut liberum aut servitio obligatum. li. 2. ca. 7. num. 3. & 4. Liberum maritagium dicitur, ubi donator vult, quod terra sit data, quiesca sit & libera ab omni seculari servitio, quod ad Dominum feudi possit pertinere: et ita quod ille, cui sit data fuerit, nullum omnino inde faciat servitium usq; ad tertium heredem, et usq; ad quartum gradum: ita quod tertius heres sit inclusivus.* See the rest. See also *Skene de verbo, significa. verbo Maritagium*, who is worth the reading.

Maritagio amisso per defaultam, is a writ for the tenent in franck mariage, to recover lands, &c. whereof he is deforced by another, *Regist. fol. 171.*

Maritagio forisfacto, is a writ. See *Forisfactura Maritagii.*

Marke, (*merca*) commeth of the Saxon (*Meare*) which signifieth a peece of monie worth thirtie Silver pence. *Lamb. explic. of Saxon words, verbo Mansensa*: what it now signifieth in our coine, every man knoweth.

But in ancient times I find a mark of gold, which was the quantitie of eight ounces. *Stowes annals, pag. 32.* and againe, *pag. 691. 12.* markes of gold Troy weight, the which was 200 pounds of Englisht monie, after which rate every mark valued 16 pounds 13 shillings 4 pence. *M. Skene de verbo, signif. verbo Merke*, saith, that in *tractatu de ponderibus & mensuris*, a Marke signifieth an ounce weight, or halfe a pound, whereof the Dram is the eighth part, like as the ounce is the eighth part of a Marke; citing *Cassaneus de consueud. Burgund. Rub. prim. §. 7. verbo. Solz Turnoys. huius verbis. Solidus (inquit) in iure capitur pro auro, quorum 72. faciunt libram auri, & duodecim uncia faciunt libram, & octo uncia mercam.*

Market (mercatus) commeth of the French (*marche. i. emporium, forum nundinarium*) it signifieth with us, the same thing, and also the libertie or priviledge whereby a Towne is enabled to keepe a Market, *Old nat. br. fol. 149.* So doth *Bracton* use it, *lib. 2. cap. 24. num. 6. & lib. 4. cap. 46.* where hee sheweth that one Market ought to be distant from another *Sex leucas & dimidiam, & tertiam partem dimidia.* The reason thereof both hee and *Fleta* giveth in these words: *Quia omnes rationabiles dicta constant ex*

20. *milliaribus*. *Dividatur ergo dicta in tres partes : prima autem matutina detur euntibus versus mercatum: secunda detur ad emendum & vendendum: qua quidem sufficere debet omnibus, nisi sint forte mercatores statarii qui merces deposuerint et exposuerint venales, quibus necessaria erit prolixior mora in mercatu: & tertia pars relinquatur redeuntibus de mercatu ad propria. Et qua quidem omnia necesse erit facere de die, non de nocte, propter insidias & incursum latronum, ut omnia sint in tuto, &c.* lib. 4. cap. 28. §. Item refert.

Marle, is a kind of stone or chálke, which men in divers countries of this Realme, cast upon their land to make it the more fertile. It is some where called *Malin*. anno 17. *Edvard 4.* cap. 4.

Marque, seemeth to bee a French word signifying *notam*, *vel signum*, or else to come from the German (*march. i. limes*) it signifieth in the ancient statutes of our land, as much as *reprisals*, as anno 4. *H. 5. cap. 7.* *Marques* and *Reprisals* are used as *Synonyma*. And letters of *Marques* are found in the same signification in the same chapter. The reason may be, because the griefes whereupon these letters are sought and granted, are commonly given about the bounds and limits of every country: or at

least the remedy for the same is likest there to be had by some *fo-daine inrode*, and happing of such recompence of the injurie received, as may most conveniently be lighted upon. See *Reprisals*. See *Marches*.

Marquis (Marchio) by the opinion of *Hotom. verbo Marchio*, in *verbis feudalis*, cometh of the German *March. i. limes*, signifying originally as much as (*Custos limitis*) or (*Comes et praefectus limitis*) of these *Zasius* thus writeth: *de Marchione nihil comperitum est, nisi quod Gothicum vocabulum putamus*. And after ward thus: *Hujusmodi Marchionum (sive ut nos appellamus) Margraviorum origo in limitaneos, praepositos, sive duces referenda: Margraffiti dicti quod limitibus, quos vulgo marken appellamus, graphii, id est, praepositi fuerunt, &c.* For in those territories, that haue naturally no bounds of great strength or defence, there is need of wise and stout men toward their borders, for the keeping out of neighbour enemies. But here in England though wee have a Lord Warden of the marches northward, and a Warden of the cinque ports toward the South-east, and were wont to haue Lord *Marchers* betweene us and Wales, that served this turne, yet those which we call *Marquises*, are Lords of more dignity, without any such

charge: and are in honour and accompt next unto Dukes. At this day I know but one in England, and that is the Marquis of Winchester, being of that noble family of the Powlets. See *Cassanani de consuetud. Burg. pag. 15.*

Marrow, was a lawyer of great account, that lived in Henry the seventh his dayes, whose learned readings are extant, but not in print. *Lamb. Eiren. lib. pri. ca. 1.*

Marterns, see *Furre*.

Master of the Rols (*Magister rotulorum*) is an Assistant unto the Lord Chauncelor of England in the high Court of Chauncery, and in his absence heareth causes there, and giveth orders, *Crompt. Jurisdiction, fol. 41.* His title in his patent (as I have heard) is *Clericus parvabaga, custos rotulorum & domus conversorum*. This *domus conversorum*, is the place where the roles are kept, so called because the Jewes in auncient times, as they were any of them brought to Christianity, were bestowed in that house separately from the rest of their nation. But his office seemeth originally to have sprung, from the safe keeping of the Roles or Records of Inditements passed in the Kings Courts, and many other things. Hee is called Clarke of the Roles, *anno 12. R. 2. cap. 2.* and in *Fortescue* his booke, *ca. 24.*

and no where Master of the Roles, untill *anno 11. H. 7. cap. 20.* and yet *anno 11. ejusdem, cap. 25.* hee is also called Clarke. In which respect, *Sir Thomas Smith, lib. 2. cap. 10. de Repub. Angl.* well saith, that hee might not unfitly bee called (*Custos Archivorum.*) Hee seemeth to have the bestowing of the offices of the sixe Clearkes, *an. 14. & 15. H. 8. ca. 8.*

Master of the mint, *anno 2. Hen. 6. cap. 14.* hee is now called the Warden of the mint, whose office, see in *Mint*.

Master of the Court of Wards and Liveries, is the chiefe and principall officer of the Court of Wards and Liveries, named and assigned by the King, to whose custody the seale of the court is committed. Hee at the entring upon his office, taketh an oath before the Lord Chauncelour of England, well and truly to serve the King in his office, to minister equal justice to rich & poore, to the best of his cunning, wit, and power, diligently to procure all things, which may honestly and justly be to the Kings advantage and profit, and to the augmentation of the rights and prerogative of the Crowne, truly to use the Kings seale appointed to his office, to endeavour to the uttermost of his power, to see the King justly answered of all such profits, rents, revenewes, and issues,

issues, as shall yearly rise, grow, or be due to the King in his office from time to time, to deliver with speed such as haue to doe before him, not to take or receive of any person any gift or reward in any case or matter depending before him, or wherein the King shall be party, whereby any prejudice, losse, hinderance, or dishonour shall bee or grow to the King, *a. 33. H. 8. c. 33.*

Master of the horse, is hee that hath the rule and charge of the Kings stable, being an office of high account, and alwayes bestowed upon some Noble-man, both valiant and wise. This Officer under the Emperors of Rome, was called (*comes sacri stabuli.*) The Master of the horse is mentioned, *anno 39. Eliz. cap. 7. & anno prim. Ed. 6. cap. 5.*

Master of the posts, is an Officer of the Kings court, that hath the appointing, placing, and displacing of all such through *England*, as provide post horse for the speedy passing of the Kings messages, and other busines, in the through-fayre townes where they dwell: as also to see that they keepe a certaine number of conuent horses of their owne, and when occasion is, that they provide others, wherewith to furnish such, as haue warrant from him to take post horses, either from or to the seas, or o-

ther borders, or places within the Realme. Hee likewise hath the care to pay them their wages, and make their allowance accordingly, as hee shall thinke meet. This officer is mentioned, *anno 2. Ed. 6. cap. 3.*

Master of the armorie, is hee that hath the care and oversight of his Majesties armour for his person or horses, or any other provision or store thereof in any standing Armories: with command, and placing or displacing of all inferiour Officers thereunto appertaining. Mention is made of him, *anno 39. Eliz. cap. 7.*

Master of the Jewell house, is an Officer in the Kings household, of great credit, being allowed bouge of court, that is, diet for himselfe and the inferiour Officers. *viz.* Clerks of the Jewell house, and a speciall lodging or chamber in court, having charge of all plate of gold, of silver double or parcell gilt, used or occupied for the Kings or Queenes board, or to any Officer of account attendant in court, and of all plate remaining in the Tower of *London*, of chaines and loose Jewels not fixed to any garment. Mention is made of this Officer, *anno 39. Eliz. cap. 7.*

Master of the Kings household, (*magister hospitii*) is in his just title called grand Master of the

Kings household, and beareth the same office that hee did, that was wont to bee called Lord Steward of the Kings most honorable household, *anno 32. Hen. 8. cap. 39.* Whereby it appeareth, that the name of this Officer was then changed, and *Charles Duke of Suffolke*, President of the Kings Councell, then enjoying that office, was so to bee called ever after, so long as hee should possesse that office.

Master of the Ordinance, *anno 39. El. cap. 7.* is a great Officer, to whose care all the Kings Ordinance and Artillery is committed, being some great man of the Realme, and expert in martiall affaires.

Master of the Chancerie, (*Magister Cancellaria*) is an assistant in Chancerie to the Lord Chancellor, or Lord Keeper of the Broad Seale in matters of judgement. Of these there bee some ordinarie, and some extraordinary: of ordinarie there be twelve in number, whereof some sit in Court every day throughout each Terme, and have committed unto them (at the Lord Chancellers discretion) the interlocutoric report, and sometimes the finall determination of causes there depending.

Master of the Kings musters, is a martiall officer in all royall

armies most necessarie, as well for the maintaining of the forces compleate, well armed and trained, as also for prevention of such frauds, as otherwise may exceedingly waste the Princes Treasure, and extremely weaken the forces. He hath the oversight of all the Captaines and Bands, and ought to have at the beginning delivered unto him by the Lord Generall, perfect Lists and Roles of all the forces both horse and foot, Officers, &c. with the rates of their allowances signed by the Lord Generall, for his direction and discharge, in signifying warrants for their full pay. This Officer is mentioned in the statute, *anno 2. Edw. 6. cap. 2.* and *Master master generall*, *anno 35. Elizab. cap. 4.* who so desireth to reade more of him, let him have recourse to *Master Digs his Stratioticos.*

Master of the Wardrobe (*magister garderoba*) is a great and principall officer in Court, having his habitation and dwelling house belonging to that office, called the *Wardrobe neere Puddle-wharfe in London.* Hee hath the charge and custodie of all former Kings and Queenes ancient robes, remaining in the Tower of London, and all Hangings of Arras, Tapestrie, or the like, for his Majesties houses, with

with the bedding remaining in standing wardrobes, as *Hampton court, Richmond, &c.* He hath also the charging and delivering out of all either Velvet or Scarlet allowed for Liveries, to any of his Majesties servants of the Privie Chamber, or others. Mention is made of this officer, *anno 39. Elizabeth. cap. 7.*

Master in deed, and matter of record, are said to differ, *Old nat. br. fol. 19.* where matter in deed, seemeth to be nothing else but a truth to be proved, though not by any Record: And matter of Record, is that which may be proved by some Record. For example: if a man be sued to an exigent, during the time hee was in the Kings wars, this is matter in deed, and not matter of record. And therefore (saith the booke) hee that will alleage this for himselfe, must come before the *Scire facias* for execution be awarded against him. For after that, nothing will serve but matter of Record; that is, some error in the Proceffe appearing upon the Record. *Kitchin, fol. 216.* maketh also a difference betweene matter of Record, and a specialtie, and nude matter; where hee saith, that nude matter is not of so high nature, as either a matter of Record, or a specialtie, otherwise there called matter in deed; which maketh mee

to thinke, that nude matter is a naked allegation of a thing done, to be proved onely by witnesses, and not either by Record, or other specialtie in writing under Scale.

Manger, is shuffled up of two French words (*Mal*) and (*Gre*) i. *animo iniquo*) it signifieth with us, as much as in despight, or in despight of ones teeth, as the wife mauger the husband, *Litleton, fo. 124.* that is, whether the husband will or not.

Meane, (*Medius*) signifieth the middle betweene two extreames, and that either in time or dignitie. Example of the first: His action was meane betwixt the disseisin made to him, and his recoverie: that is, in the *interim*. Of the second there is Lord Meane and Tenent. See *Mesn.*

Mease (*Mesnagium*) seemeth to come of the French (*Maison*) or rather (*Meix*) which word I find in *Cassanens de consuet. Burgund. pag. 1195.* and interpreted by him *Mansus*: what *Mansus* is, see *Mansion*. It signifieth a house, *Kitchin, fo. 239.* and *Fitz. nat. br. fo. 2. C.* See *Mesnage*.

Medlese, (*Cromptons Justice of peace, fol. 193.* is that which *Bracton* calleth (*medletum*) *li. 3. tract. 2. cap. 35.* It seemeth to signifie quarels, scuffling, or brawling, and to be derived from the french

(*maſter. i. miſcere, turbare.*)

Meere (*Merus*) though an Adjective, yet is it used for a Substantive, signifying meere right, *Old natura brev. fol. 2.* in these words: And know yee, that this Writ hath but two issues: that is to say, joyning the miſe upon the meere: And that is, to put himſelfe in the great affiſe of our Sovereigne Lord the King, or to joyne battell. See *Miſe*.

Mesurement. See *Admeſurement.*

Medietas lingua, ſignifieth an Enqueſt empaneled upon any cauſe, whereof the one halfe conſiſteth of Denizens, the other of Strangers. It is called in Engliſh the halfe tongue, and is uſed in Plees, wherein the one partie is a Stranger, the other a Denizen. See the ſtatute, *anno 28. Ed. 3. cap. 13.* & *anno 27. ejuſdem, ſtatut. 2. cap. 8.* commonly called the ſtatute of the Staple, & *anno 8. H. 6. cap. 29.* & *anno 2. H. 5. cap. 3.* & *anno 11. H. 7. cap. 21.* & *anno 1. & 2. Phil. & Mar. cap. 8.* And before the firſt of theſe ſtatutes was made, this was wont to be obtained of the King by grant made to any companie of Strangers, as *Lombards, Almains, &c. Starnford, pl. cor. lib. 3. cap. 7.*

Medio acquietando, is a writ judiciall, to diſtaine a Lord for

the acquiting of a meane Lord from a rent, which hee formerly acknowledged in Court not to belong unto him, *Register judiciall, fol. 29. b.*

Melim inquirendo, is a writ that lieth for a ſecond inquirie, as what lands and tenements a man died ſeiſed of, where partiall dealing is ſuſpected upon the writ, *Diem clauſit extremum. Fitzb. nat. br. fol. 255.*

Merchenlage, was one of the three ſorts of lawes, out of which the Conquerour framed Lawes unto us, mingled with thoſe of *Normandie, Camd. Britan. pag. 94.* who alſo, *pag. 103.* ſheweth that in the yeare of our Lord 1016. this land was divided into three parts, whereof the Weſt Saxons had one, governing it by the Lawes called Weſt Saxon Lawes, and that contained theſe nine Shires, *Kent, Southſex, Southrey, Barkeſhire, Hampſhire, Wiltſhire, Somerſet, Dorſet and Devonſhire.* The ſecond by the Danes, which was governed by the Lawes called *Denelage*, and that contained theſe fifteene Shires: *Torke, Darby, Nottingham, Leiceſter, Lincolne, Northampton, Bedford, Buckingham, Harriſford, Eſſex, Middleſex, Northf. Southf. Cambridge, Huntingdon.* The third was poſſeſſed and governed by the *Mercians*, whoſe Law was called *Merchenlage*; which were theſe eight

eight, Gloucester, Worcester, Hereford, Warwick, Oxford, Chester, Salop, and Stafford. See Law.

Mercy (*Misericordia*) signifieth the arbitrement or discretion of the King or Lord, in punishing any offence, not directly censured by the law. As to bee in the grievous mercie of the King, anno 11. H. 6. cap. 6. is to bee in hazard of a great penalty. See *Misericordia*.

Measondue, (*domus Dei*) cometh of the French (*maison de dieu*) by which names divers Hospitals are named. You find the word, anno 2. & 3. Philip. & Mar. cap. 23. in fine.

Mese. See *Mease*.

Mesn (*medius*) seemeth to come from the French (*mainsne*. i. *minor natus*) it signifieth in our Common Law, him that is Lord of a manour, and thereby hath Tenents holding of him, yet holding himselfe of a Superiour Lord. And therefore it seemeth not absurdly to bee drawne from the French (*mainsne*) because the Lordship is created after the higher, whereof hee holdeth. *Mesn* also signifieth a writ, which lieth where there is Lord, *mesn*, and tenent, the tenent holding of the *mesn* by the same services, whereby the *mesn* holdeth of the Lord, and the tenent of the *mesn* is distrained by the superi-

our Lord, for that his service or rent, which is due to the *Mesn*. Fitzherbert, nat. brev. fol. 135. See *Mesnaltie*.

Mesnaltie (*medietas*) cometh of *Mesn*, and signifieth nothing but the right of the *Mesn*: as, the *Mesnaltie* is extinct, *Old nat. br. fol. 44* if the *Mesnaltie* descend of the tenent, *Kitchin. fol. 147*. For farther understanding whereof, take these words out of the Customarie of Norm. *Medietate tenentur feuda, quando aliqua personaintervenit inter Dominum & tenentes. Et hoc modo tenent omnes post nati, mediante ante nato.*

Messenger of the Exchequer, is an officer there, of which sort there be foure in that Court, that be Pursuivants attending the lord Treasurer, to carrie his Letters and Precepts. See *Pursuivant*.

Mesuage (*mesuagium*) is a dwelling house, *West, parte 2. symbol. titulo Fines. Sect. 26*. But by the name of a mesuage may passe also a Curtilage, a Garden, an Orchard, a Dove house, a Shop, a Mill, as parcell of an house, as he himselfe confirmeth out of *Bracton, lib. 5. cap. 28. Sect. prim. and Plowden, fol. 199, 170, 171.* and of himselfe hee avoucheth the like of a Cottage, a Tost, a Chamber, a Celler, &c. yet may they bee demanded by their single names. *Mesuagium* in Scotland, signifieth the principall dwelling place

place or house within a Baronie, which in our land is called a Manner house, *Skene de verb. signific. verbo, Mesuagium*, where hee citeth *Valentine Leigh*, that in his Booke of Survey hee affirmeth *Mesuagium*, to be the tencement or land earable; and the dwelling house or place, or Court Hall thereof; to be called the Site, in Latine called *Situs*.

Mile (miliare) is a quantitie of a thousand paces, otherwise described to containe eight furlongs, and every furlong to containe fortie lugs or poles, and every lug or pole to containe 16. foot and a halfe, anno 35. *Eliz. cap. 6.*

Mildervix, anno 1. *Iacobus*, cap. 24.

Mindbruch, is hurting of honour and worship. *Saxon* in his description of *Engl. ca. 71.*

Miniver. See *Furre*.

Minoverie, anno 7. *R. 2. ca. 4.* seemeth to bee compounded of two French words (*main. i. manus*) and (*ouurer. i. operari*) and to signifie some trespasse or offence committed by a mans handie worke in the Forest, as an engine to catch Deere. *Britton* useth the verbe (*meinoverer*) for to occupie and manure land, cap. 40. and cap. 62. *main-ouvre*, for handie worke. It is not unlike, that our English (*mannre*) is abbreviated of the French.

Mint, cometh of the Germane word (*meunk. i. pecunia, moneta*) and it signifieth with us, the place where the Kings Coine is formed, be it Gold or Silver, which is at this present, and long hath beene, the Tower of *London*, though it appeare by divers Stories, and other Antiquities, that in ancient times, the Mint hath beene also at *Caleis*, an. 21. *R. 2. cap. 16. & anno 9. H. 5. stat. 5. cap. 5.* The Officers belonging to the Mint, have not beene alwaies alike. At this present they seeme to be these: The Warden, who is the chiefe of the rest, and is by his office to receive the Silver of the Goldsmiths, and to pay them for it, and to over-see all the rest belonging to this function. His fee is an hundred pounds *per annum*. The Master-worker, who receiveth the Silver from the Warden, causeth it to be melted, and delivereth it to the Moniers, and taketh it from them againe, when it is made. His allowance is not any set fee, but according to the pound weight. The third is the Controller, who is to see that the monie be made to the just assise, to oversee the officers, and controll them, if the monie be not as it ought to be: his fee is one hundred markes *per annum*. Then is the Master of the Assay, who weigheth the silver, and seeth whe-

whether it bee according to standard: his yearly fee is also an hundred markes. Then is the Auditour to take the accompts, and make them up Auditor-like. Then is the Surveyor of the melting, who is to see the silver cast out, and not to bee altered after it is delivered to the Melter: which is after the Assay-master hath made triall of it. Then is the Clerke of the Irons, who seeth that the Irons bee cleane, and fit to worke with. Then the Graver, who graveth the stamper for the monies. Then the Smyters of Irons, who alter they be graven, smiteth them upon the money. Then the Melters, that melt the Bullion, before it come to the coining. Then the Blanchers, who doe aneale, boyle, and cleanse the money. The Porter, who keepeth the gate of the mint. The Provost of the mint, who is to provide for all the moniers, and to over-see them. Lastly, the moniers, who are some to sheere the money, some to forge it, some to beate it abroad, some to round it, some to stampe or coyne it. Their wages is not by the day or yeare, but uncertaine, according to the weight of the money coyned by them. Other officers that have bin in former time, are said now to bee out of use.

Misaventure, or misadventure, cometh neere the French (*mesadventure. i. infortunium.*) In our common law, it hath an especial signification for the killing of a man, partly by negligence, and partly by chance. As if one thinking no harme, dissolutely throweth a stone, wherewith he killeth another: or shooteth an arrow, &c. For in this case hee committeth not felony, but onely looseth his goods, and hath pardon of course for his life. *Stawn. pl. cor. lib. 1. ca. 8. Britton ca. 7.* distinguisheth between *Aventure* and *misaventure*. *Aventure* hee maketh to bee meere chance, as if a man being upon or neere the water, be taken with some sodaine sicknesse, and so fall in, and is drowned, or into the fire, and bee burned to death. *Misaventure* hee maketh, where a man cometh to his death by some outward violence, as the fall of a tree, or of a gate, the running of a cartwheele, the stroke of a horse, or such like. So that *misaventure* in *Stawnfords opinion*, is construed somewhat more largely, then *Britton* understandeth it. *West. parte 2. symbol. titulo Inditement, sect. 48.* maketh homicide casuall, to bee meerely casuall or mixt. Homicide by meere chance, hee defineth *sect. 49.* to bee, when a man is slaine by meere fortune, against the

mind of the killer; as if one hewing, the Axe flieth off the haft, and killeth a man. And this is all one with *Brittons misaventure*. Homicide by chance mixed, hee defiaeth, *Seft. 50.* to be, when the killers ignorance or negligence is joined with the chance: as if a man loppe Trees by a high way side, by which many usually travell, and cast downe a bough, not giving warning, &c. By which bough, a man passing by, is flaine.

Miscontinuance, *Kitchin, fol. 231.* See *Discontinuance*.

Mise (misa) is a French word signifying as much as (*expensum*) in Latine, and the Latine word (*Misa*) is so used in *Kitchin, fol. 144.* and in *West, parte 2. symbol. titulo*, Proceedings in Chancerie, *Seft. 21. F.* It is used *anno 2. & 3. Ed. 6. ca. 36.* for a summe of monie paid by the Kings tenants in certaine Counties in *Wales* according to their severall customes. In the statute 33. *H. 8. ca. 13.* it is used plurally, for certaine custumarie gratuities sent to the Lord Marchers of *Wales*, by their Tenents, at their first comming to their lands. And *anno 4. & 5. Ph. & Ma. ca. 11.* *mise* is used in an action of right or propertie, for the point where-upon the parties proceed to triall, either by Affise or battell: as if, sue is in an action personall; if

the *Mise* be upon battell, *Lisleton, fol. 102.* and in the *Old nat. br. fol. 2.* you have these words: Know yee that this writ hath but two issues: that is to say, joining the mise upon the meere, and that is, to put himselfe into the great Affise of our Sovereigne Lord the King, or to joine battell. See *anno 37. Ed. 3. cap. 16.* To joine the mise upon the meere, is as much to say, as to joine the mise upon the cleere right, and that in more plaine termes is nothing else, but to joine upon this point, whether hath the more right, the Tenent or Demandant. *Lisleton, lib. 3. cap. 8. fol. 101. b.* This word in some other place is used for a Participle, signifying as much as (*cast or put upon*) in English, which appeareth by Sir *Ed. Cokes* report in *Saffins case. vol. 6. fol. 124. a.*

Misericordia, is used in the common law, for an arbitrarie punishment, *Bracton, li. 4. tract. 5. ca. 6.* in these words: *Item si quis in misericordiam inciderit pro disseisina, non remanebit misericordia exigenda, si ille qui amiserit, quasiverit convictionem.* *Kitchin, fol. 78.* out of *Glanvile* saith thus: *Est autem misericordia, quia quis per juramentum legalium hominum amerciatu est, ne aliquid de suo honorabili contenmento amittat.* Which saying you have in a manner word for word in *Glanvile, lib. 9.*

lib. 9, cap. 11. Fitzherbert saith, that it is called *miser cordia*, because it ought to bee very moderate, and rather less then the offence, according to the tenure of the great Charter, cap. 14. This saith Fitzherbert in his *nat. brev.* in the writ *De moderata misericordia*, fol. 75. A. I. *Misericordia* is to be quit of *Misericors*, that is, to be discharged of all manner of amercements, that a man may fall into within the Forest. See *M. Cromptons Iurisdiction*, fol. 196. See *Amerciamment*. See *Mercie*, and *Moderata misericordia*.

Miskenning, i. changing of speech in Court. Saxon in the description of *Engl. ca. 11*.

Misnomer, is compounded of the French (*mes*) which in composition alwaies signifieth as much as (*amisse*) and (*nomer. i. nominare*) It signifieth in our common law, the using of one name for another, or mis-terming. *Broke, titulo Misnomer*.

Misprison (*mispriso*) commeth of the French (*Me prus. i. fastidium, contemptus*) It signifieth in our common law, neglect, or negligence, or over-sight: As for example, Misprison of treason, or of felonie, is a neglect or light account shewed of treason, or felonie committed, by not revealing it, when wee know it to be committed; *Stamf. pl. cor. li. 1. ca. 19*.

which read at large: or by letting any person committed for treason or felonie, or suspicion of either, to goe before hee be indicted. Also Misprison of Clerks, *anno 8. H. 6. ca. 15*. is a neglect of Clerks in writing, or keeping Records. Thirdly, *anno 14. Ed. 3. ca. 6. stat. prim.* by misprison of Clerks no proesse shall be admitted. Misprison of treason, is the concealment, or not disclosing of knowne treason, for the which the offendours are to suffer imprisonment during the Kings pleasure, lose their goods, and the profits of their lands, during their lives. *Crompton in his Iustice of Peace, cap. Misprison of felonie, fol. 40. West, parte 2. symbol. titulo Inditements, Sect. 63. in fine.* Misprison of felonie, seemeth onely finable by the Iustices, before whom the partie is attainted. *Cromptons Iustice of Peace, ubi supra*. The Iustices of the common place have power to assess fines and amerciaments upon persons offending for misprisons, contempts, or negligences, for not doing, or mis-doing any thing, in or concerning fines, *West, parte 2. symbol. titulo Fines. Sect. 133*. Iustices of Assize shall amend the defaults of Clerkes misprising of a Sillable or Letter or writing, *Cromptons Iurisdiction, fol. 208*. But it is to be noted, that other faults may

be accounted Misprisions of treasons or felonie, because certaine latter statutes doe inflict that punishment upon them, that of old hath beene inflicted upon Misprisions, whereof you have an example, *anno 14. Eliz. ca. 3.* of such as coine forreine Coines not current in this Realme, and of their Procurers, Aiders, and Abettors. And see the new exposition of Law Termes. Misprision signifieth also a mistaking, *anno 14. Ed. 3. stat. pri. ca. 6.*

Misses. See *Mise*.

Misuser, is an abuse of libertie or benefit: As he shall make fine for his misuser, *Old nat. brev. fol. 149.*

Mysterie (*mysterium*) cometh of the Latine (*mysterium*) or rather from the French (*mestier. i. ars, artificium*) an art, or occupation.

Mittendo manuscriptum pedis finis, is a writ Iudiciall, directed to the Treasurer and Chamberlaines of the Exchequer, to search and transmit the foot of a fine, acknowledged before Iustices in Eyre, into the Common pleses, &c. *Register, fol. 14. a. b.*

Mittimus, signifieth a Precept sent by the King out of his Bench, to those that have the custodie of fines levied, that they send them by a day assigned to his Bench, *West, parte 2. symb. titulo*

Fines. Sect. 138. F. & 154. B. and also to the Exchequer for certificate that Iudgement is given for the livery of lands to such or such a one, out of the Kings hands: whereupon hee is dimissed also out of the Exchequer, *an. 5. R. 2. ca. 15.* of divers other uses and applications of this (*Mittimus*) see the Register originall in the Table of the booke.

Moderata misericordia, is a writ that lieth for him that is amerced in Court Baron or other, being not of Record, for any transgression or offence beyond the qualitie of a fault. It is directed to the Lord of the Court, or his Bailiffe, commanding them to take a moderate amerciament of the partie; and is founded upon *Magna charta, ca. 14. Quod nullus liber homo amercietur nisi secundum qualitatem delicti, &c.* The rest touching this writ, see in *Fitzh. nat. br. fol. 75.* See *Misericordia*.

Modo & forma, are words of Art in a processe, and namely in the answer of the Defendant, whereby hee denieth himselfe to have done the thing laid to his charge, *modo & forma declarata, Kitchin, fol. 232.* It signifieth as much, as that clause in the civill law, *Negat allegata, prout allegantur, esse vera.*

Moitie, cometh of the French (*Moitie*) id est, *coequa vel medi-*

media pars) and signifieth the halfe of any thing, *Littleton, fol. 125.*

Monk's cloths, anno 20. *Hen. 6. cap. 10.*

Moniers (*monetarii*) *Register originall, fol. 262. b. & anno 1. Ed. 6. ca. 15.* be ministers of the Mint, which make and coine the Kings monie. It appeareth by some Antiquitie which I have seene, that in ancient times our Kings of England had Mints in most of the Countries of this Realme. And in the Tractate of the Exchequer, written by *Ockham*, I find, that whereas the Sherifes ordinarily were tyed to pay into the Exchequer, the Kings Sterling, for such debts as they were to answer, they of *Northumberland*, and *Cumberland*, were at libertie to pay in any sort of monie, so it were Silver. And the reason is there given, because those two Shires, *monetarios de antiqua institutione non habent.*

Monstrance de droyt, is as much to say, as shewing of his right. It signifieth in our common Law, a suit in Chancerie to be restored to lands or tenements, that indeed be mine in right, though they were by some office found to bee in possession of another lately dead. See *Stawns. prarog. cap. 21.* at large, and *Broke, titulo Petition.* Of this also reade Sir

Edward Cokes Reports, lib. 4. fol. 54 b. & c. The Wardens of the *Sadlers case.*

Monstraverunt, is a writ that lieth for tenants that hold freely by Charter in ancient Demecane, being distrained for the payment of any tolle or imposition, contrarie to their libertie, which they doe or should enjoy, which see in *Fitzb. nat. br. fol. 14.*

Morian, is all one in signification with the French (*Morion. i. cassis*) a head piece: which word the french man boroweth from the Italian (*morione*) anno 4. & 5. *Ph. & Ma. ca. 2.*

Morling, aliàs *mortling*, seemeth to be that wooll which is taken from the skin of a dead Sheepe, whether dying of the rotte, or being killed, anno 27. *H. 6. ca. 2.* This is written *Morkin*, anno 3. *Iaco. ca. 8.*

Mort d'ancester. See *Affise.*

Mortgage (*mortuum vadium, vel morgagium*) is compounded of two french words (*mort, id est, mors*) and (*gage, id est, pignus, merces*) It signifieth in our common law, a pawne of land or tenement, or any thing moveable, laid or bound for monie borrowed, peremptorily to be the Creditours for ever, if the monie bee not paid at the day agreed upon. And the Creditour holding land or tenement upon this bargaine, is in the meane time

time called Tenent in mortgage. Of this wee reade in the grand Customarie of Normandie, cap. 113. in these words: *Notandum insuper est, quod vadium, quoddam vivum, quoddam mortuum nuncupatur. Mortuum autem dicitur vadium, quod se de nihilo redimit & acquietat, ut terra tradita in vadium pro centum solidis, quam cum obligator retrahere voluerit, acceptam pecuniam restituet in solidum. Vivum autem dicitur vadium, quod ex suis proventibus acquiratur. Ut terra tradita in vadium pro centum solidis usque ad tres annos, que elapso tertio anno, reddenda est obligatori, vel tradita in vadium, quousque pecunia recepta de ejusdem proventibus fuerit persoluta.* Glanville likewise lib. 10. cap. 6. defineth it thus: *mortuum vadium dicitur illud, cujus fructus vel redditus interim percepti in nullo se acquietant.* So you see by both these Bookes, that it is called a dead gage, becaus whatsoever profit it yieldeth, yet it redeemeth not it selfe by yielding such profit, except the whole sum borrowed be likewise paid at the day. See Skene de verb. significat. eodem. He that laieth this pawne or gage, is called the Mortgager, and hee that taketh it, the Mortgagee, West. parte 2. symb. titulo Fines. Sect. 145. This, if it containe excessive usurie, is prohibited, anno 37. H. 8. ca. 9.

Mortmaine (*Manus mortua*) is compounded of two French words (*Mort. i. mors*) and (*Main. i. manus*) It signifieth in the common law, an alienation of lands or tenements to any Corporation, Guilde, or Fraternitie, and their successours, as Bishops, Parsons, Vicars, &c. which may not be done without license of the King, and the Lord of the maner. The reason of the name proceedeth from this, as I conceive it, because the services and other profits due for such lands, as Ecclesiastes, &c. commeth into a dead hand, or into such a hand as holdeth them, and is not of power to deliver them, or any thing for them back againe. Magna charta, cap. 36. & anno 7. Ed. prim. commonly called (the statute of Mortmaine) and anno 18. Ed. 3. statut. 3. cap. 3. & anno 15. Richard 2. cap. 5. Polydor. Virgil in the seventeenth book of his Chronicles, maketh mention of this law, and giveth this reason of the name. *Et legem hanc manuum mortuam vocarunt, quod res semel data collegiis sacerdotum, non utique rursus venderentur, velut mortua, hoc est, nisi aliorum mortalium in perpetuum adempta essent. Lex diligenter servatur, sic ut nihil possessionum ordinis sacerdotalis a quoquam detur, nisi Regio permissu.* But the former statutes be something abridged by

by anno 39. Elizabeth, cap. 5. by which the gift of lands, &c. to Hospitals, is permitted without obtaining of Mortmaine. *Hotoman* in his Commentaries de verbis feudal. verbo *Manus mortua*, hath these words: *Manus mortua locutio est qua usurpatur de iis quorum possessio, ut ita dicam, immortalis est: quia nunquam heredem habere desinunt. Quà de causâ res nunquam ad priorem dominum reuertitur. Nam manus pro possessione dicitur, mortua pro immortalis. Sic municipium dicitur non mori, l. Anususfructus 56. D. de usufr. legat. quoniam hominibus aliis succrescentibus, idem populi corpus videtur. l. proponebatur. 76. D. de Iudiciis: Hac Hotomannus; and reade the rest. Amortizatio, est in manum mortuam translatio Principis jussu. *Petrus Belluga* in speculo principum: fol. 76. Ius amortizationis est licentia capiendi ad manum mortuam. Idem, eodem. where you may reade a learned Tractate, both of the beginning and nature of this Doctrine. To the same effect you may reade *Cass. de consuet. Burg.* pag. 348, 387, 1183, 1185, 1201, 1225, 1285, 1218, 1274. *M. Skene* de verbo. signif. saith that *Dimittere terras ad manum mortuam, est idem atque dimittere ad multitudinem sive universitatem, qua nunquam moritur: idq. per antioq. sen. seu à contrario sensu, because communalities never die.**

Mortuarie (Mortuarium) is a gift left by a man at his death, to his Parish Church, for the recompence of his personall Tithes and Offerings not duely payed in his life time. And if a man have three, or more cartell of any kind, the best being kept for the Lord of the Fee, as a *Heriot*; the second was wont to be given to the parson in right of the Church, *ca. statutum. De consuetu. in provincial.* Touching this you have two Statutes; one anno 13. Ed. pri. commonly called, *Circumspecte agatis*: whereby it appeareth, that Mortuaries are suable in the Court Christian; the other, anno 21. H. 8. cap. 6. whereby is set downe an order and rate in monie for Mortuaries.

Mulier, as it is used in the common law, seemeth to be a word corrupted, and used for (*Melior*) or rather the French (*Melieur.*) It signifieth the lawfull issue preferred before an elder Brother borne out of Matrimonie; anno H. 6. cap. 11. *Smith de repub. Anglo. lib. 3. cap. 6.* But by *Glanville, lib. 7. cap. pri.* the lawfull issue seemeth rather (*Mulier*) then (*Melior*) because it is begotten (*è muliere*) and not (*ex Concubinâ*) for hce calleth such issue *filius mulierates*, opposing them to Bastards. And *Britton, cap. 70.* hath *frere mulier. i. the Brother begotten of the wife,*

opposit to *frere bastard*. This seemeth to bee used in Scotland also, for *M. Skene de verborum significat. verbo (Mulieratus filius)* saith, that (*Mulieratus filius*) is a lawfull sonne begotten of a lawfull wife. *Quia mulieris appellatione uxor continetur. l. Mulieris 13. & ibid. glossa de verborum significatione.*

Mulmutius lawes. See *Law.*

Multure (molitura, vel multura) commeth neere the French, (*moulture*) and signifieth in our common law, the tolle that the Miller taketh, for grinding of Corne.

Murage (muragium) is a tolle or tribute to be levied for the building or repairing of publike edifices or walles, *Fitzherb. nat. br. fol. 227. D. Murage* seemeth also to be a libertie granted by the King to a Towne, for the gathering of monie toward walling of the same, *anno 3. Edw. 1. cap. 30.*

Murder (murdrum) is borrowed of the French (*meurtrier. i. carnifex, homicida*) or (*meurtre. i. internecio, homicidium.*) The new Expositor of the law termes draweth it from the Saxon word (*mordren*) signifying the same thing. It signifieth in our common law, a wilfull and felonious killing of any other upon premeditated malice, *anno 52. H. 3. cap. 25. West, parte 2. Symbol. titulo In-*

ditements Sect. 47. Bracton, lib. 3. tract. 2. cap. 15. num. pri. defineth it to be *Homicidium, quod, nullo presente, nullo sciente, nullo audiente, nullo vidente, clam perpetratur.* And of the same mind is *Britton, cap. 6.* as also *Fleta, lib. 1. cap. 30.* yet *Fleta* saith also, that it was not murder, except it were proved, the partie slaine, were English, and no Stranger. But as *Stamford* saith, *pl. cor. lib. 1. cap. 2.* the Law in this point is altered by the Statute, *anno 14. Ed. 3. cap. 4.* and murder is now otherwise to be defined. When a man upon premeditated malice killeth another, whether secretly or openly, it maketh no matter: or be hee an English man, or a forrainer living under the Kings protection. And premeditated malice is here either expresse or implied: expresse, when it may be evidently proved, that there was formerly some evill will implied: when one killeth another suddenly, having nothing to defend himselfe: as going over a stile, or such like. *Cromptons Iustice of peace, in the chapter of Murder, fol. 19. b.* See *M. Skene de verbor. significat. verbo Murdrum.* This by the Latine Interpreter of the grand Customarie of Normandie, is called *Multrum. cap. 68.* See *Were.*

Muster, commeth of the French

(*mouſtre i ſpecimen, ſpectamen, exemplum*) as, *ſeire mouſtre generale de toute ſon armee*, is as much as, *luſtrare exercitum*. The ſignification is plaine. Muſtred of record, anno 18. H. 6. cap. 19 ſeemeth to be *dare nomen*, or to be inrolled in the number of the Kings Souldiers. Maſter of the Kings muſters. anno 2. Edward 6. cap. 2. See *Maſter*.

Muſter maſter general, anno 35. Eliz. ca. 4. See *Maſter of the kings muſters*.

N A

N *Aam* (*Nemium*) ſeemeth to come from the Dutch word (*nemmen. i. capio*) It ſignifieth in our common law, the taking or apprehending of another mans moveable goods: and is either lawfull or unlawfull. Lawfull *naam*, is nothing elſe but a reaſonable diſtreſſe, proportionable to the valew of the thing diſtreined for. And this *naam* was anciently called either *viſ* or *mort*, quicke or dead, accordingly as it was made of dead or quicke chatels. Lawfull *naam* is ſo, either by the common law, or by a mans particular fact: by the common law, as when one taketh another mans beaſts damage feiſant in his grounds: by a mans particular fact, as by reaſon of ſome contract made,

that for default of payment of an annuities agreed upon, it ſhall be lawfull to diſtreine in ſuch or ſuch lands, &c. *Horns mirror of Juſtices, lib. 2. ca. de vec de naam*, where you may reade of other circumſtances required in lawfull *naam*: viz. of what thing, or of what things firſt, in what manner, on what daies, and at what houres it ought to be made; with other points worth the reading, for the underſtanding of our Law Antiquities. See *Withernam*.

Naffe, anno 4. H. 7 ca. 21. ſeemeth to be the proper name of *Orford Haven*. Whether it be ſo termed of the boats or water veſſels that lie there or not, let the reader judge. But (*naffelle*) is in French a kind of ſmall boat.

Nativo habendo, is a writ that lieth to the Sheriffe for a Lord, whoſe villein claimed as his inheritance, is run from him, for the apprehending and reſtoring of him to his Lord againe, *Reg. orig. fol. 87. Fitzh. nat. br. fol. 77. See Libertate probanda*.

Naturalization. See *Denizen*.

Ne admittas, is a writ that lieth for the Plaintiff in a *Quare impedit*, or him that hath an action of *Darrein preſentment* depending in the common Bench, and feareth that the Biſhop will admit the Clerke of the Defendant, during the ſuit betweene them.

them. And this writ must be sued within fixe moneths after the avoydance. Because after the fixe moneths the Bishop may present by lapse. *Register originall, fol. 31. Fitzh. nat. br. fol. 37.* where see the rest.

Negative pregnant (*Negativa pregnans*) is a negative implying also an affirmative. As is a man being impleaded, to have done a thing upon such a day, or in such a place, denyeth that hee did it *modo & forma declarata*: which implyeth neverthelesse, that in some sort hee did it. Or if a man be said to have alienated land, &c. in fee, hee denying that hee hath alienated in fee, seemeth to confesse that hee hath alienated in some other sort. *Dyer, fol. 17. num. 95.* See *Brooke hoc titulo*, and *Kitchin, fol. 232.* And see the new exposition of law termes. And reade also in some Civilians, of *Affirmativa pregnans*, and that is, *qua habet in se inclusivam negativam. Et hoc importare videntur dictiones (Solum & tantum, qua implicant negativam) Pacianus. De probationibus. lib. 1. cap. 31. nu. 16. fol. 93.*

Neif (*nativa*) commeth of the French (*Naif. i. naturalis, vel natus*) it signifieth in our common law, a bond woman, *anno 1. Ed. 6 cap. 3.* the reason is, because women become bond rather *nativitate*, then by any other means.

Ne injuste vexes, is a writ that lyeth for a Tenent, which is distained by his Lord, for other services then he ought to make, and is a prohibition to the Lord in it selfe, commanding him not to distreine. The especiall use of it is, where the Tenent hath formerly prejudiced himselfe by performing more services, or paying more rent without constraint, then hee needed. For in this case, by reason of the Lords seisin, hee cannot avoid him in avowry: and therefore he is driven to this writ as his next remedie, *Register orig. fol. 4. Fitzh. nat. br. fol. 10.*

Ne vicecomes colore mandati Regis quenuquam amoveat a possessione ecclesie minus justè. *Register orig. fol. 61.*

Nient comprise, is an exception taken to a petition as unjust, because, the thing desired, is not contained or comprehended in that act or deed, whereupon the petition is grounded. For example, one desireth of the court, to be put in possession of a house formerly among other lands, &c. adjudged unto him. The adverse party pleadeth, that his petition is not to be granted, because though hee had a judgement for certaine lands and houses: yet the house into the possession wherof he desireth to bee put, is not contained among those for the which hee had

had judgement. See the new book of Entries, *titulo Nient comprise*. This seemeth to be especially to hinder execution.

Niste, anno 3. Ed. 4. cap. 5.

Nihil, anno 5. R. 2. stat. 1. cap. 3. is a word set upon a debt illeivable, by the forreine Apposer in the Exchequer.

Nihil dicit, is a failing to put in answer to the Plee of the Plaintiffe by the day assigned, which if a man doe commit, judgement passeth against him, as saying nothing why it should not.

Nisi prius, is a writ judiciall, which lieth in case, where the Enquest is paneled, and returned before the Iustices of the Banke, the one partie or the other making petition, to have this writ for the ease of the Countie. It is directed to the Sheriffe, commanding that hee cause the men impaneled to come before the Iustices in the same Countie, for the determination of the cause there, except it be so difficult, that it need great deliberation. In which it is sent againe to the Banke, v. anno 14. Edw. 3. cap. 15. The forme of the writ, see in *Old nat. br. fol. 159.* and in the *Register judiciall, fol. 7. & 28. & 75.* See the new booke of Entries, *verbo, Nisi prius*. And it is called (*Nisi prius*) of these words comprised in the

same, whereby the Sheriffe is willed to bring to *Westminster*, the men empaneled at a certaine day, or before the Iustices of the next Assises: *Nisi die Luna apud talem locum prius venerint, &c.* whereby it appeareth, that Iustices of Assises, and Iustices of (*Nisi prius*) are differing. And Iustices of (*Nisi prius*) must be one of them, before whom the cause is depending in the Bench, with some other good man of the Countie associated unto him, *Fitzherb. nat. brev. fol. 240. E.* which hee taketh from the Statute of Yorke, anno 12. Ed. 2. See *Westm. 2. cap. 30. anno 13. Edw. prim. & anno 27. ejusdem, cap. 4. & anno 2. Edw. 3. cap. 17. & anno 4. ejusdem, cap. 11. & anno 14. ejusdem, cap. 16. & anno 7. Rich. 2. cap. 7. & anno 18. Eliz. cap. 12.*

Nobility (*nobilitas*) in England compriseth all dignities above a Knight. So that a Baron is the lowest degree thereof. *Smith de Repub. Anglor. lib. prim. cap. 17. Bartolus* in his Tractate *De Nobilitate*, which hee compiled upon the law, *Si ut proponis C. de dignitatibus, libro 12.* rehearseth foure opinions *de Nobilitate*, but rejecteth them, and himselfe defineth it thus: *Nobilitas est qualitas illata per principatum tenentem, qua quis ultra honestos plebeios acceptus ostenditur.* But

this definition is too large for us, except wee will account Knights and Binerets *inter plebem*, which in mine opinion were too harsh. For *Equites* among the Romanes, were in a middle ranke *inter Senatores & plebem*.

Necumeto. See *Nasance*.

Nomination (*nominatio*) is used by the Canonists, and common Lawyers, for a power that a man by vertue of a manour or otherwise, hath to appoint a Clarke to a patron of a benefice, by him to bee presented to the Ordinarie. New termes of the law.

Non-abilite, is an exception taken against the Plaintiffe or Demandant upon some cause, why hee cannot commence any suite in Law, as a *Premunire*, *Outlawrie*, *Villinage*, *Excommunication*: or because hee is a stranger borne. The Civilians say, that such a man hath not *personam standi in iudicio*. See *Brooke, hoc titulo*. See *Fitzh. nat. br. folio 35. A. fol. 65. D. fol. 77. C.* The new Expositour of law termes reckoneth fixe causes of *Non-ability*: as if hee be an outlaw, a stranger borne, condemned in a *premunire*, professed in religion, excommunicate, or a villein. Howbeit the second cause holdeth only in actions reall or mixt, and not in personall, except

hee bee a stranger and an enemy.

Non admittas. See *Ne admittas*.

Non-age, is all the time of a mans age under one and twenty yeares in some cases, or fourteene in some, as marriage. See *Broke, titulo, Age*. See *Age*.

Non capiendo clericum. See *Clerico non capiendo*.

Non clayme, *Cromptons Iurisd.* fol. 144. seemeth to bee an exception against a man that claimeth not within the time limited by law, as within the yeare and day, in case where a man ought to make continuall claime, or within five yeares after a fine levied. *v. Cooke, lib. 4. in proemio*. See *Continuall clayme*.

Non compos mentis, is of foure sorts: first, hee that is an idiot borne: next, hee that by accident afterward wholly looseth his wits: thirdly, a lunaticke, that hath sometime his understanding, and sometime not: lastly, hee which by his owne act depriveth himselfe of his right mind for a time, as a drunkard, *Cooke, lib. 4. fol. 124. b.*

Non distringendo, is a writ, comprising under it divers particulars, according to divers cases: all which you may see in the Table of the Register, *orig. verbo, non distringendo*.

Non est culpabilis, is the general

nerall answer to an action of Trespasse, whereby the Defendant doth absolutely denie the fact imputed unto him by the Plaintiffe, whereas in other especiall answers, the Defendant granteth a fact to bee done, and alleageth some reason in his defence, why hee lawfully might doe it. And therefore whereas the Rhetoricians, comprise all the substance of their discourses, under three questions, *An sit, quid sit, quale sit*, this answer falleth under the first of the three: all other answers are under one of the other two. And as this is the generall answer in an action of trespassse, that is, an action criminall civille prosecuted: so is it also in all actions criminally followed, either at the suit of the King or other, wherein the Defendant denieth the crime objected unto him. See the new booke of Entries, *titulo Non culpabilis*, and *Starns. pl. cor. lib. 2. cap. 62.*

Non est factum, is an answer to a declaration, whereby a man denieth that to be his deed, whereupon hee is impleaded. *Broke, hoc titulo.*

Non implacitando aliquem de libero tenemento sine brevi, is a writ to inhibit Bailiffs, &c. from distreining any man without the Kings writ touching his freehold, *Register, fol. 171. b.*

Non intromittendo quando breve prapice in capite subdole impetratur, is a writ directed to Iustices of the Bench, or in Eyre, willing them not to give one hearing, that hath under the colour of intitling the King to land, &c. as holding of him *in capite*, deceitfully obtained the writ called, *Prapice in capite*; but to put him to his writ of right, if he thinke good to use it, *Register originall, fol. 4. b.*

Non mercandizando victualia, is a writ directed to the Iustices of Assise, commanding them to inquire whether the Officers of such a Towne doe sell victuals in grosse, or by re-taile, during their Office, contrarie to the statute, and to punish them, if they find it true, *Register, fol. 184.*

Non molestando, is a writ that lieth for him, which is molested contrarie to the Kings protection granted him, *Register, fol. 24.*

Non omitras, is a writ lying where the Sheriffe delivereth a former writ to a Bailiffe of a Franchise, within the which the partie, on whom it is to be served, dwelleth, and the Bailiffe neglecteth to serve it: for in this case, the Sheriffe returning, that he delivered it to the Bailiffe, this shall be directed to the Sheriffe, charging him himselfe, to execute the Kings commandement, *Old nat. brev. fol. 44. of this the*

Regist.

Regist. orig. hath three torts, fol. 82. b. & 151. and the *Reg. judic.* one, fol. 5. & 56.

Non penendo in Assisis & Iuratis, is a writ founded upon the *stat. Westm. 2. ca. 38.* and the *stat. Articuli super chartas. ca. 9.* which is granted upon divers causes to men, for the freeing them from Assises and Iuries. See *Fitzh. nat. br. fol. 165.* See the *Register*, fol. 179, 100, 181, 183.

Non procedendo ad Assisam Rege inconsulto, is a writ to stop the triall of a cause appertaining unto one, that is in the Kings service, &c. untill the Kings pleasure be farther knowne, *Register*, fol. 220. a.

Non residentia pro clericis Regis, is a writ directed to the Ordinarie, charging him not to molest a Clerk imployed in the Kings service, by reason of his non residence. *Reg. orig. fol. 58. b.*

Non-suit, is a renunciation of the suit by the plaintife or demandant, when the matter is so farre proceeded in, as the Iurie is ready at the Barre, to deliver their verdict, anno 2. H. 4. cap. 7. See the new book of Entries, verbo *Non-suit*. The Civilians terme it *Litis renunciationem*.

Non solvendo pecuniam ad quam Clericus mulctatur pro non residentia, is a writ prohibiting an Ordinarie to take a pecuniarie mulct, imposed upon a Clerke of the

Kings for Non-residence, *Reg. orig. fol. 59.*

Non-tenure, is an exception to a count, by saying that hee holdeth not the land specified in the count, or at the least, some part of it, anno 25. Edw. 3. *statut. 4. cap. 16. West. parte 2. Symbol. titulo Fines. Sect. 138.* maketh mention of *Non-tenure* generall, and *Non-tenure* speciall. See the new book of Entries, verbo *Non-tenure*, where it is said, that especiall *Non-tenure* is an exception, alledging that hee was not tenent the day whereon the writ was purchased. *Non-tenure* generall is then by likelyhood, where one denieth himselfe ever to have beene tenent to the land in question.

Non sum informatus. See *Informatus non sum*.

Non sane memorie (*Non sana memoria*) is an exception taken to any act declared by the Plaintiff or Demandant to be done by another, whereupon he groundeth his plaint or demand. And the contents of this exception be, that the partie that did that act (being himselfe or any other) was not well in his wits, or mad when hee did it. See the new booke of Entries, titulo *Non sane memorie*, and *Dum non fuit compos mentis*. See also, *supra Non compos mentis*.

Non terme (*non terminus*) is the time

time of vacation between Terme and Terme. It was wont to be called the times or daies of the Kings peace, *Lamb. Archaiono. fol. 126.* and what these were in the time of King Edward the Confessour, see there. This time was called (*Iustitium*) or (*Feria*) among the *Romanes*, or (*dies nefasti*) *Ferias appellari notum est tempus illud, quod forensibus negotiis & jure dicendo vacabat. Earum autem alia solennes erant, alie repentina.* *Brissou. de verb. signif. lib. 6. vide Wesenbec: paratit. De Feriis. num. 6.*

Note of a fine, (*nota finis*) is a briefe of a fine made by the Chirographer, before it be ingrossed. The forme whereof see in *West*, *parte 2. symbol. titulo Fines. Sect. 117.*

Novell assignement (*nova assignatio*) is an assignement of time or place, or such like, otherwise then as before it was assigned. In *Brooke* you may find these words in effect: *titulo, Deputie. num. 12.* See *novell assignement of Trespasse* in a new place after *Barre* pleaded. *Broke, titulo Trespasse. 122.* and, *novell assignement in a writ de ejectione custodie. titulo Ejectione custodie. num. 7.* See *Assignement.*

Nude mater. See *Mater.*

Nunne (*Nonna*) is the French word (*nonnain*) or (*nonne*) something altered, which signifieth a

holy, or consecrated Virgin, or a woman that hath by vow bound her selfe to a single and chaste life, in some place and companie of other women, separated from the world, and addicted to an especiall service of God, by Prayer, Fasting, and such like holy exercises. It wee would know whence this word came into France, *Saint Hierome* maketh it an *Ægyptian* word, as *Hospinian* recordeth of him, in his Booke *De origine & progressu monachatus. fol. 3.*

Nuper obiit, is a writ that lieth for a co-heire being deforced by her co-heire of lands or tenements, whereof the Grandfather, Father, Vncle, or Brother to them both, or any other their common Ancesters, died seised of an estate in Fee simple. See the forme of the writ, *origin. Regist. fol. 226. &c. Fitzh. nat. br. fol. 197.* If the Ancestor died seised in Fee taile, then the co-heire deforced shall have a *Formdon.* *Idem. ibid.*

Nuisance (*noeuumentum*) cometh of the French (*nuire. i. nocere.*) It signifieth in our common law, not onely a thing done, whereby another man is annoyed in his free lands or tenements, but especially the Assise or writ lying for the same. *Fitzh. nat. br. fol. 183.* And this writ (*de Noeuumento*) or of *Nu-*

sance is either simply, *De nocumeto*, or *de paruo nocumeto*; and then it is *Vicountiel*. *old. nat. br. fo.* 108. & 109. & *Fitzb. natur. br. ubi supra*, & *fol. 184*. Britton calleth it *Nofance*, whom also reade *cap. 61. & 62.* *M. Manwood parte 2.* of his *Forest Lawes*, *cap. 17.* maketh three sorts of *Nysance* in the *Forest*, the first is *Nocumentum commune*, the second, *Nocumentum speciale*, the third, *Nocumentum generale*; which reade with the rest of that whole chapter. See the *Register orig. fol. 197. & 199.*

Nutmegs, (*nux myristica, vel nux muscata*) is a spice well knowne to all. It groweth of a tree like a Peach tree, and is inclosed in two huskes, whereof the inner huske is that spice which we call Mace. Of this who will, may reade more in *Gerards herball, lib 3. ca. 145.* It is mentioned among spices that are to beegarbled, *anno 1. Iaco. cap. 19.*

O

Obedientia, was a rent, as appeareth by *Roger Hoveden parte poster: suorum annalium, fol. 430.* in these words: *ut ego eis, sc. regularibus, adimatur oportunitas evagandi, prohibemus ne redditus quos obedientias vocant, ad firmam teneant, &c.* *Obedientia* in the canon law is used for an office or the

administration of an office. *ca. cum ad monasterium. 6. extra de statu monacho: et cano. regula.* And thereupon the word (*obedientiales*) is used in the provinciall constitutions for those which have the execution of any office under their Superiors. *cap. prim. de statu, regula.* For thus saith *Lyndwood* in his glosse upon that word: *Hii sunt qui sub obedientia suorum pralatorum sunt, et habent certa officia administranda interius vel exterius.* It may be that some of these offices called *obedientie* consisted in the collection of rents or pensions: and that therefore those rents were by a metonymie called *obedientia*, *quia colligebantur ab obedientialibus.*

Oblations (*oblaciones*) are thus defined in the canon law. *Oblaciones dicuntur, quacumq; à piis fidelibusque Christianis offeruntur Deo & ecclesie, sive res soli, sive mobiles sint. Nec refert an legentur testamento, an aliter donentur, cap. clerici. 13. quaest. 2.* Reade more of these in *Duarenus. De sacr. eccl. minister. ac benefi. cap. tertio.*

Obligation (*Obligatio*) and *Bill* be all one, saving that when it is in English, it is commonly called a *Bill*, and when it is in Latine, an *Obligation*. *West. prrte 1. symbol. lib. 2. sect. 146.* True it is that a *Bill* is obligatorie: but wee commonly call that an obli-

Obligation, which hath a condition annexed. The former Author in the same place saith thus farther. An Obligation is a deed, whereby the Obligour doth knowledge himselfe to owe unto the Obligee, a certaine summe of money, or other thing. In which, besides the parties names, are to bee considered the thing due, and the time, place, and manner of payment, or deliverie. Obligations bee either by matter in deed, or of record. An Obligation by matter in deed, is every Obligation not acknowledged and made in some Court of Record. Hitherto *Master West.*

Occupavit, is a writ that lieth for him, which is ejected out of his land or tenement in time of war: as a writ of *Novel disseisin* lieth for one ejected in time of peace. *Ingham S. Brev de novel disseisin.*

Octo tales. See *Tales.* See *Broke tit. Octo tales.*

Odio & atia, anno 3. Ed. 1. cap. 11. is a writ sent to the under-Sheriffe, to inquire whether a man being committed to prison upon suspicion of murther, be committed upon malice or evill will, or upon just suspicion, *Regist. orig. fol. 133. b.* See *Braeton, li. 3. parte 2. cap. 20.*

Office (Officium) doth signifie not onely that function, by vertue

whereof, a man hath some employment in the affaires of another, as of the King, or other common person; but also an Inquisition made to the Kings use, of any thing by vertue of his office who inquireth. And therefore we oftentimes reade of an office found, which is nothing but such a thing found by Inquisition made *ex officio*. In this signification it is used *anno 33. H. 8. cap. 20.* and in *Stawnfords prerog. fol. 60. & 61.* where to traverse an office, is to traverse the Inquisition taken of office. And in *Kitchin, fo. 177.* to returne an office, is to returne that which is found by vertue of the office; see also the new booke of Entries, *verbo Office pur le Roy.* And this is by a metonymie of the effect: And there bee two sorts of offices in this signification, issuing out of the Exchequer by Commission, *viz.* an office to intitle the King in the thing inquired of, and an office of instruction; which reade in *Sir Edward Cokes reports, vol. 6. Pages case. fol. 52. a. b.* Office in fee, is that which a man hath to himselfe and his heires, *anno 13. Edw. 1. cap. 25. Kitchin, fol. 152.* See *Clerk.*

Official (Officialis) is a word verie diversly used. For by sundrie Civilians of other countries, that write in these daies, it appeareth to bee applied in many

places, to such as have the sway of temporall Iustice. *Egidius Bossius in pract. crim. tit. De officialibus corruptis, &c.* But by the ancienter civill Law, it signifieth him that is the Minister or Apparitor of a Magistrate or Iudge.

l. 1. §. si quis ultro. *q. de questio, & Co. de filiis officialium, &c. lib. 12.* In the Canon law, it is especially taken for him, to whom any Bishop doth generally commit the charge of his spirituall Iurisdiction. And in this sense one in every Diocesis (*officialis principalis*) whom the Statutes and Lawes of this Kingdome call Chanceler, *an. 32. H. 8. cap. 15.* The rest, if there bee more, are by the canon law called *officiales foranei*, *glos. in clem. 2. de Rescriptis*, but with us termed Commissaries (*Commissarii*) as in the statute of *H. 8.* or some times (*Commissarii foranei.*) The difference of these two powers you may reade in *Lyndwood, titulu de sequestra possess. ca. 1. verbo. Officialis.* But this word (*officialis*) in our statutes and common law, signifieth him, whom the Archdeacon substituteth in the executing of his Iurisdiction, as appeareth by the statute above mentioned, and many other places.

Officiariis non faciendis vel amovendis, is a writ directed to the Magistrates of a corporation,

willing them not to make such a man an officer, and to put him out of the office hee hath, untill enquiry bee made of his manners, according to an inquisition formerly ordained. *Register originall, fol. 126. b.*

Onerando pro rata portione, is a writ that lyeth for a joynt tenent, or tenent in common, that is distrained for more rent, then the proportion of his land cometh unto. *Reg. orig. fol. 182. a.*

Open Law (*Lex manifesta, Lex apparens*) is making of Law, which by *Magna charta, cap. 28.* Bayliffes may not put men unto upon their owne bare assertions, except they have witnesses to prove their imputation.

Orchel anno 1. R. 3. cap. 8. Orchall, anno 24. H. 8. ca. 2. & anno 3. & 4. Ed. 6. cap. 2. seemeth to be all one with corke.

Ordinance of the Forest (*Ordinatio Foresta*) is a statute made touching Forest causes in the 34. yeare of Edward 1. See *Affise*.

Ordinarie (*Ordinarium*) though in the civill Law, whence the word is taken, it doth signifie any Iudge that hath authority to take knowledge of causes in his owne right, as he is a Magistrate, and not by deputacion: yet in our common lawe, it is most commonly, and for ought I remember, alway taken for him,

that hath ordinary Iurisdiction in causes ecclesiasticall. See Brooke hoc titulo. Lindwood in cap. exterior, titulo de Constitutionibus. verbo Ordinarii, saith, quod Ordinarius habet locum principaliter in Episcopo, & aliis superioribus, qui soli sunt universales in suis iurisdictionibus, sed sunt sub eo alii ordinarii, hii viz. quibus competit Iurisdictione ordinaria de jure, privilegio, vel consuetudine, &c. v. c.

Ordinatione contra servientes, is a writ that lyeth against a servant for leaving his master against the statute, Register originall, fol. 189.

Ordeal (Ordalum) is a Saxon word, signifying as much as Iudgement, in some mens opinions compounded of two Saxon words (or) a privative, as (a) in Greeke, and (del. i. pars) It signifieth as much as *expers*: but it is artificially used for a kind of purgation practised in auncient times: whereby the party purged, was judged *expers criminis*, called in the canon Law *purgatio vulgaris*, and utterly condemned. There were of this two sorts, one by fire, another by water. Of these see M. Lamberd in his explication of Saxon words. verbo *Ordalum*, where he expresseth it at large, with such superstitious as were used in it. Of this you may likewise read Holinshed in his description of Bri-

tanie, fol. 98. and also M. Manwood, parte pri. of his Forest lawes, pag. 15. But of all the rest, Hotoman especially, disput. de feud. cap. 41. whereof five kind of proofes, which hee calleth feudales probationes, hee maketh this the fourth, calling it *explorationem*, & huius furiosa probationis 6. genera fuisse animadvertit, per flammam, per aquam, per ferrum candens, per aquam vel gelidam vel ferventem, per sortes, & per corpus Domini, of all which he alledgeth severall examples out of Hiltory, very worthy the reading. See M. Skene also de verbor. significatione, verbo (*Machamium*) This seemeth to have beene in use here with us in Henry the seconds dayes, as appeareth by Glawville, lib. 14. cap. 1. & 2. Reade also of this in M. Verstegans Restitution of decayed intelligence, cap. 3. pag. 63. & seqq.

Orsgild, alias, Cheapegild, is a restitution made by the Hundred or Countie, of any wrong done by one that was in plegio. Lamberd. *Archaiou*. pag. 125. et 126.

Orgeis, anno 31. Ed. 3. stat. 3. cap. 2. is the greatest sort of North sea-fish, now adayes called *Organ ling*.

Oredelse, is a liberty whereby a man claimeth the Ore found in his foyle. New exposition of

Termes.

Ortelli, is a word used in the booke termed (*pupilla oculi*) in the chapter containing the Charter of the Forest, *parte 5. cap. 22.* and signifieth the clawes of a dogs foot, being taken from the french, *ortels des pieds. i. digitipedum*, the Toes.

Osmonds, anno 32. Henr. 8. cap. 14.

Oth of the King (*Iuramentum Regis*) is that which the King taketh at his Coronation, which in *Bracton* is set downe in these words: *Debet Rex in coronatione sua, in nomine Jesu Christi prestitio sacramento hac tria promittere populo sibi subdito: Inprimis se esse precepturum & pro viribus opem impensurum ut ecclesie dei & omni populo Christiano vera pax omni suo tempore observetur. Secundo, ut rapacitates & omnes iniquitates omnibus gradibus interdicit. Tertio, ut in omnibus iudiciis equitatem precipiat & misericordiam, ut indulgeat ei suam misericordiam clemens & misericors Deus, & ut per Iustitiam suam firma gaudeant pace universi.* And in the old abridgement of Statutes set out in King Henry the eighth daies, I find it thus described. This is the oath that the King shall sweare at his Coronation: That hee shall keepe and maintaine the right, and the liberties of the Holy Church, of old time

granted by the righteous Christian Kings of England, and that hee shall keepe all the Lands, Honours, and Dignities righteous and free of the Crowne of England in all maner whole, without any maner of minishment, and the rights of the Crowne hurt, decayed, or lost, to his power shall call againe into the ancient estate; and that hee shall keepe the peace of the Holy Church, and of the Clergie, and of the people with good accord: and that hee shall doe in all his judgments equitie, and right justice with discretion and mercie: and that hee shall grant to hold the lawes and customes of the Realm, and to his power keepe them, and affirme them, which the folke and people have made and chosen: and the evill lawes and customes wholly to put out: and stedfast and stable peace to the people of this Realme, keepe, and cause to be kept to his power: and that hee shall grant no Charter, but where hee may doe it by his oath. All this I find in the foresaid Booke, *titulo Sacramentum Regis.* and *Charter of Pardon. quinto.*

Oth of the Kings Iustices is, That they well and truely shall serve the King, and that they shall not assent to things, that may turne to his damage or disinherittance. Nor that they shall take

no fee nor liverie of none but the King. Nor that they shall take gift nor reward of none that hath adoe before them, except it bee meate and drinke of small value, as long as the plee is hanging before them, nor after for the cause. Nor that they shall give counsell to none in matter that may touch the King, upon paine to bee at the Kings will, body and goods. And that they shall doe right to every person, notwithstanding the Kings letters, &c. anno 18. *Ed. 3. statut. 4.* which the old abridgement maketh to be anno 20. *ejusdem statuto per se.*

Otho, was a Deacon Cardinall of *S. Nichens in carcere Tulliani*, and Legate for the Pope here in England, anno 22 *H. 3.* whose constitutions wee haue at this day: *Stowes An. p. 303*: and see the first constitution of the said Legat.

Othobonus was a Deacon Cardinall of *S. Adrian*, and the Popes Legate here in England, anno 15. *Hen. 3.* as appeareth by the award made betweene the said King and his Commons, at *Kenelworth*; his constitutions wee haue at this day in use.

Ouch, anno 24. *H. 8. cap. 13.*

Ouster le main (*Auovere manum*) word for word, signifieth to take off the hand, though in true French, it should be (*Oster la main*) It signifieth in the common

Law, a Judgement given for him that tendeth a travers, or sheweth a *Monstrance de droit*, or petition. For when it appeareth upon the matter discussed, that the King hath no right nor title to the thing hee seised, then Judgement shall be given in the Chancery, that the Kings hands bee removed, and thereupon *Auoveas manum* shall be awarded to the Escheator: which is as much, as if the judgement were given, that hee should haue againe his land *v. Stawn. prerog. ca. 14.* See anno 28. *Ed. 1. stat. 3. ca. 19.* It is also taken for the writ graunted upon this petition. *Fitzh. nat. br. fol. 256. C.* It is written *ouer le maine*, anno 25. *Hen. 8. ca. 22.*

Ouster le mer (*ultra mare*) commeth of the French (*oultre. i. ultra*) and (*le mer. i. mare*) and it is a cause of excuse or Effoine, if a man appeare not in Court upon Summons. See *Essoin*.

Outfangthes, aliàs *utfangthes*, is thus defined by *Bracton, lib. 3. tra. 2. ca. 34.* *Ufangthes dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuit in terra ipsius, quitalet habet libertates*, but see *Britton* otherwise, fol. 91. *b.* It is compounded of three Saxon words (*out. i. extra*) (*sang. i. capio vel captus*) and (*Thes. i. fur*) It is used in the common law, for a liberty or privi-

priviledge, whereby a Lord is inabled to call any man dwelling within his owne fee, and taken for felony in any other place, and to judge him in his owne Court. *Rastals Expos. of words.*

Owely of services, is an equality when the Tenent paravaile oweth as much to the mesn, as the mesn doth to the Lord paramount. *Fitz. nat. br. folio 136. A. B.*

Outlawry (utlagaria) is the losse or deprivation of the benefit belonging to a subject: that is, of the Kings protection and the Realme. *Bracton, lib. 3. tract. 2. cap. 11 num. pri. & nu. 3. Foriffacit utlagatus omnia quae pacis sunt: Quia à tempore quo utlagatus est, caput gerit lupinum, ita quod ab omnibus interfici possit, & impunè: maxime si se defenderit, vel fugerit, ita quod difficilis sit ejus captio, & nu. 4. Si autem non fugerit, nec se defenderit cum captus fuerit: extunc erit in manu domini Regis mors, & vita, & qui taliter captum interfecerit, respondebit pro eo sicut pro alio, v. c.*

Outparters anno 9. H. 5. cap. 8. seemeth to bee a kind of thieves in *Ridesdall*, that ride abroad at their best advantage, to fetch in such catell or other things, as they could light on without that liberty: some are of opinion that those which in the forena-

med Statute are termed out-parties, are at this day called out-putters, and are such as set matches for the robbing of any man or house: as by discovering which way hee rideth or goeth, or where the house is weakest and fittest to be entred. See *Intakers.*

Outryders, seeme to bee none other but Bayliffs errants, employed by the Sheriffes or their fermers, to ride to the fardest places of their countie or hundreds, with the more speed to summon to their county or hundred courts, such as they thought good to worke upon. *anno. 14. Edm. 3. stat. 1. ca. 9.*

Oxgang of land (Bovata terra) Six oxgangs of land, seeme to bee so much as fixe oxen will plough. *Crompton. Jurisd. fol. 220.* but an oxegang seemeth properly to be spoken of such land as lieth in gainour. *old. nat. br. fol. 117. M. Skene de verb. signif. verbo Bovata terra* saith, that an oxen-gate of land should alway containe 13. acres, and that 4. oxen-gates extendeth to a pound land of old extent. See *Librata terra.*

Oyer and Terminer, (*audiendo & terminando*) in true French (*Ovir & terminer*) is, in the intendment of our Law, a Commission especially graunted to certaine men, for the hearing and determining of one or more

causes. This was wont to be in vse vpon some sodaine outrage or insurrection in any place. *Croptons Iurisd. fol. 131. & 132* See *The Statute of West. 2. cap. 29. anno. 13. Ed. 1.* who might graunt this commission. And see *Fitzh. nat. br. fol. 100.* for the forme and occasion of the writ, as also to whom it is to bee graunted, and whom not. See *Broke, titule, Oyer & determiner.*

Oyer de Record, (Audire Recordum) is a petition made in Court, that the Iudges for better proofes sake, will be pleased to heare or looke vpon any Record.

P

P *Acking whites. anno. 1. R. 3. cap. 8.*

Pain fort & dure (pœna fortis & dura) is in true French (*peine fort & dure.*) It signifieth in our common Lawe, an especiall punishment for those, that being arraigned of felony, refuse to put themselves upon the ordinary tryall of God and the countrey, and thereby are mute, or as mute in interpretation of law. This (as *Stawns* thinketh, *pl. cor. lib. 2. cap. 60.*) is founded vpon the Statute of *Westm. prim. cap. 12. anno. 3. Ed. prim.* His reason is, because *Bracton*, who writ before that Parliament, maketh

no mention of it: and *Britton* writeth after that time, toucheth it in his 4. chapter, *fol. 11. viz.* in words to this effect: If they will not acquite themselves, let them bee put to their penance vntill such time as they do desire tryall: and let the penance bee such: *viz.* Let them be bare legged, without girdle, and without hatte or cappe, in their coate onely, and lye in prison vpon the naked earth day and night. And let them eate no bread, but of barley and branne, nor drinke any other then water, and that vpon that day when they eate not. And let them be chained. *Stawnsford* in his said 60. chapter of his second booke, expoundeth it more plainly and particularly in this sort. And note, that this strong and hard paine shall be such: *sc.* He shall bee sent backe to the prison whence hee came, and layed in some lowe darke house, where he shall lie naked upon the earth without any litter, rushes, or other cloathing, and without any rayment about him, but onely something to cover his priuy members. And he shall lye vpon his backe with his head couered and his feete. And one arme shall bee drawne to one quarter of the house with a cord, and the other arme to another quarter: and in the same manner let it be

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done with his legges : and let there be layed vpon his body iron and stone, so much as he may beare, or more: and the next day following, he shall haue three morsels of barley bread without drinke : and the second day, he shall haue drinke three times : and as much at each time, as he can drinke, of the water next vnto the prison doore, except it be running water, without any bread. And this shall be his dyet vntill he dye.

Palatine. See *County Palatine.* See *Cassan. de consuetud. Burg. pag. 14.*

Paltingman, anno 11. *Henr. 7. cap. 22.*

Panell (*panellum*) commeth of the French (*panne. i. pellis*, or *paneau*), a peece or pane, as we call it in English. It signifieth in our common law, a shedule or rolle, containing the names of such Iurours, as the Shyreue prouideth to passe vpon any triall. *Register orig. fol. 223 a. Kitthin, fol. 266.* See *Broke, hoc titulo.* And thereupon the empaneling of a Jury, is nothing but the entring of them into the Shyreues rolle or booke.

Pannage (*pannagium*) is a tolle or contribution. *Fitz. nat. br. fol. 227. D.* See *Pawnage.*

Paramounte, aliàs *peremounte*, commeth of these two French words (*par. i. per*) and (*Monter*

i. ascendere) It signifieth in our law, the highest Lord of the fee: for there may bee a Tenant to a Lord, that houldeth ouer of another Lord. And the former of those is called Lord *Mesn*, the second Lord paramount. And a Lord paramount (as it seemeth by *Kitchin, fol. 289*) consisteth onely in comparison; as one man may be great being compared with a lesser, and little being compared with a greater: and as *Genus*, among the *Logiciāns*, may be in diuers respects both *genus*, & *species.* *Fitzh. nat. br. fol. 135. M.* So that none seemeth simply to be Lord paramount but onely the King, as *Genus summum* is simply *Genus*. For the King is patron paramount to all the benefices in England Doctor and student: *ca. 36.* See *Parauaile, Maner. and Fee.*

Parauaile, aliàs *Perauaile*, is compounded of two French words (*par. i. per.*) and (*aualler. i. dimittere, demittere*) It signifieth in our common law, the lowest tenant, or him that is tenant to one, who holdeth his fee ouer of another. So is it vsed, *pl. cor. fol. 197. & Fitzh. nat. br. fol. 135. M.* See *Paramounte.* See *Mesn.*

Parcell makers, are two officers in the eschequer, that make the parcels of the escheators accounts, wherein they charge them

them with every thing they haue leuyed for the Kings vse, within the time of their office, & deliuer the same to one of the auditors of the court, to make an accompt of the escheator thereof.

Parceners. See *Coparceners.*

Parcinarie (*participatio*) cometh of the French (*partir*. i. *diuiduū facere*. It signifieth in our common law, a houlding or occupying of land by more *pro indiuiso*, or by ioint tenants, otherwise called *Coparceners*, of the French (*parsonier*. i. *partiarus*, *particeps*.) For if they refuse to diuide their common inheritance and chuse rather to hold it ioyntly, they are said to hold in *parcinarie*. *Litt. fol. 56. & 57.* This by the *Feudists* and *Lombards* is termed (*adaquatio, vel paragiū*) And among the ancient Romans *particulones, sic enim authore Nonio, a veteribus cohæredes inter se dicebantur, quod partes inuicem facerent. Spigelius.*

Pardon (*pardonatio*) is a French word, signifying as much as *pax, venia, gratia*. It is vsed most notoriously in our common lawe, for the remitting or forgiving of a felonious or other offence committed against the King. This pardon istwo-fold : one *ex gratia Regis*, the other, *per cours de ley*, by courie of law. *Stamf. pl. cor fol. 47.* *Pardon ex gratia Regis*, is that, which the

king, in some speciall regard of the person or other circumstance, sheweth or affordeth vpon his absolute prerogatiue or power. Pardon by course of law, is that which the law in equity affordeth, for a light offence, as homicide casuall, when one killeth a man having no such meaning. *West. parte 2. symbol. titulo, Inditements. sect. 46.* Of this see the new booke of *Entries. verbo, Pardon.*

Pardoners, anno 22. H. 8. c. 12. were certaine fellowes that carried about the Popes Indulgences, and sold them to such as would buy them, against whom *Luther*, by *Sleydās* report, incensed the people of *Germany* in his time, exhorting them, *ne mereris tam vile tanti emerent.*

Parke (*parcus*) cometh of the French (*parquer*. i. *vallo, vel fossa circumdare.*) It signifieth with vs, a peece of grounde inclosed and stored with wild beastes of chafe. Which a man may haue by prescription or the kings graunt. *Cromptons Iurisd. fol. 148. M. Manwood parte pri. of his Forest lawes. pag. 148.* defineth it thus : A parke is a place for priuiledge for wilde beastes of venery, and also for other wild beastes, that are beastes of the Forest, and of the chafe, *tam sylvestres, quā campestres.* And all those wilde beastes are to

have a firme peace and protectiō there. So that no man may hunt or chase them within the parke, without licence of the owner of the same. Who also *fol. 149.* saith thus: A parke is of another nature, then either a chate, or a warren is. For a parke must bee inclosed, and may not lye open: for if it doe, that is a good cause of seizure of the same into the hands of the King, as a thing forfeited: as a free chase is, if it be inclosed. And moreover, the owner cannot have action against such as hunt in his park, if it lye open. See *Forest.* See *Chase.* See *Warren.* This word *Park* *Baldwinus* deriueth à *paradiso*, *eumq; locum esse dicit, in quo varia animalia ad usū voluptatis, aut venationis includuntur & possidentur, adempta naturali libertate. Ad tit. de rerum divis. in Institutionib.*

Parco fracto, is a writ which lyeth against him, that violently breaketh a Pound, and taketh out beasts thence, which, for some trespass done vpon another mans ground, or lawfully impounded. *Register original fol. 166. Fitzh. nat. br. fol. 100.*

Parish (*parochia*) cometh of the greeke (*παρακοία* i. *Accolarium conuentus, accolatus, sacra vicinia*) it is vsed in the Cannon law, sometime for a Bishoprick. But in our common law it signi-

fieeth the particular charge of a secular priest. for euery church is either Cathedrall, Couentuall, or Prochiall. Cathedrall is that, where there is a Bishop seated, so called a *Cathedra*: Couentuall consisteth of Regular clerks, professing some order of religion, or of Deane and chapter, or other colledge of spirituall men. Parochiall is that, which is instituted for the saying of diuine seruice, and ministring the holy Sacraments to the people dwelling within a certaine compass of ground neare vnto it. Our Realme was first diuided into parishes by *Honorius Arch. of Canterbury*, in the yeare of our Lord. 636. *Cambd. Britan. pag. 104.* Of these parish churches I finde there were in England in the daies of *H. 8.* the number of 45000. *Hotoman* in his disputations de feudis. cap. 2. maketh mention of this word (*parochia*) out of *Pomponius Letus* in these words. *Nā sic quoq; Pomponius Letus veterem consuetudinem fuisse scribit, eāq; ab Imperatore Constantino repetitā, ut Ducibus praefectis, tribunis qui pro augēdo Imperio cōsenuerāt, darentur agri villaq; ut necessaria suppetērēt, quoad viverēt, quas prochas vocabant.* And a little after: *verū inter fuda & parochias hoc interest quod haec plerūq; senibus, & veteranis, plerūq; emerita militia*

militia dabatur, qui cū de Rep. bene meriti essent, publico beneficio reliquā vitam sustēbāt: aut si quod bellū nasceretur, evocati non tā milites, quā magistri militū viderētur. Feuda vero plurimū Iuvenibus robustis & primo flore ætatis, qui militie manus sustinere poterant: imo verō & ut possēt & ut velēt, &c.

Parlament (parlamentum) is a French word signifying originally as much as (*Collocutio*) or (*colloquiū*), but by use, it is also taken for those high courts of Justice throughout the kingdom of France, where mens causes & differences are publickly determined without farther appeale. Whereof there be seaven in number: as *Paris, Tolouse, Gresnoble in Dauphene, Aix in Provence, Bordeaux, Diion in Bourgogne, and Roan in Normandy.* *Vincentius Lupanus de Magist. Franc. lib. 2. cap. Parlamentū. num. 28.* whereunto *Gerard de Hailon* addeth the eighth, *viz. Rhenes in Bretagne.*

In England we use it for the assembly of the King and the 3. estates of the Realme, *viz.* the Lords Spirituall, the Lords temporall, and commons, for the debating of matters touching the common wealth, and especially the making and correcting of lawes, which assembly or court is of all other the highest, and of

greatest authority, as you may read in *Sir Thom Smith, de Repub. Anglo l. c. 1. & 2. Cambd. Britan. pag. 112. and Cromptons Jurisd. fol. pri. & seqq.* The institution of this court *Polydor Virgil, lib. 11.* of his Chronicles, referreth after a sort to *Henry the first*: yet confessing that it was used before, though very seldome. I finde in the former prologue of the Grand Customary of Normandy, that the Normans used the same meanes in making their lawes. And I haue seene a Monument of Antiquity, shewing the manner of houlding this parliament in the time of King *Edward*, the sonne of King *Etheldred*, which (as my note saith) was deliuered by the discreeter sort of the Realme vnto *William the Conquerour*, at his commandement, and allowed by him. This writing be-ginneth thus. *Rex est caput principium, & finis parlamenti, & ita non habet parem in suo gradu. Et sic ex Rege solo primus gradus est. Secundus gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baroniam tenentibus. Tertius gradus est, de procuratoribus cleri. Quartus gradus est de Comitibus, Baronibus, & aliis Magnatibus. Quintus gradus est de militibus Comitatum. Sextus gradus est de civibus & Bur-*

gensibus: & ita est parlamentū
ex sex gradibus. sed sciendū, li-
cet aliquis dictorū quinq; gra-
dū post Regē absens fuerit, dū
tamē omnes pramoniti fuerint
per rationabiles summonitiones,
parlamentum nihilo minus cen-
setur esse plenum. Touching the
great authority of this court, I
find in *Stowes Annals*, pa. 660.
that *Henry* the sixth directing his
priuy seale to *Richard Earle of*
Warwicke, thereby to discharge
him of the Captaineship of
Cales, the Earle refused to obey
the priuie seale, and continued
forth the said office, because hee
receiued it by Parliament. But
one example cannot make good
a doctrine. And of these two one
must needes bee true, that either
the King is aboue the Parliament,
that is, the positieue lawes
of his kingdome, or else that
hee is not an absolute King.
Aristotle lib. 3. Politico cap. 16
And therefore though it bee a
mercifull policy, and also a
politique mercy (not alte-
rable without great perill) to
make lawes by the consent
of the whole Realme, be-
cause so no one part shall
haue cause to complaine of a
partiality: yet simply to binde
the Prince to or by these lawes,
werē repugnant to the nature
and constitution of an absolute
monarchy. See *Bracton lib. 5.*

tract. 3. ca. 3. nu. 3. and Cassā de
consuet. Burg. pa. 335. and Tira-
quel. in his book De Nobilitate,
cap. 20. pag. 68. nu. 26. See the
statute anno 31. H. 8. cap. 8. in
proemio, and many excellent
men more, that handle this
poynt. That learned *Hotoman*
in his *Francogallia*, doth vehe-
mently oppugne this ground,
as some other that write in
corners: but he is so cleane o-
uerborne by the pois of rea-
son, that not onely many
meaner men for learning
triumph ouer him in this case,
but him selfe, as I have credi-
bly heard, vpon the sight of
his fault, cryed God and the
world mercy for his offence,
in writing that erroneous and
seditious booke. The Emperors
of Rome had their *semestria*
consilia, & their *prætorium* or
place of counsell, builded by *Au-*
gustus in his palace, and thereup-
on called (*palatinum*) afterward
termed (*Consistoriū*) where they,
as in their principall court, did
both determine the greatest
sort of their causes, and also
made their constitutions. And
heere had they assisting them
many of the wisest of their em-
pire; whom *Augustus* first
called (*cōsiliarios*) *Alexāder Se-*
verus afterward (*seniorū prin-*
cipes) others after that (*palati-*
nos) and then (*comites consistori-*
anos)

anos) And these men in this respect, were indued with great honour, and enioyed many priuiledges. Yet were they but assistants to the Emperour to aduise him, not chalenging any power ouer him, or equall with him. More touching the course and order of this Parliament, see in *Cromptons Iurisd. fol. pri. & seqq.* and *Vowell, alias Hooker*, in his booke purposely, written of this matter. See *King*.

Parole (Loquela) is a French word, signifying as much as (*Dictio, allocutio, sermo, vox*) It is vsed in *Kitchin, fol. 193.* for a plee in court. It is also sometime ioyned with lease, as *Lease parol*, that is *Lease per parole*, a lease by word of mouth.

Parson (Parsona) cometh of the French (*Personne*) It pecaliarly signifieth with vs, the Rector of a church: the reason whereof seemeth to be, because he for his time representeth the church, and susteineth the person thereof, as well in siewing, as being siewed in any action touching the same. See *Fleta. lib. 6. ca. 18.* *Parson impersonce (parsona impersonata)* is he that is in possession of a church, whether appropriated or not appropriated, for in the new booke of *Entries, verbo Ayde in Annuity*, you

haue these words. *Et pradiētus Adicet, quod ipso est persona pradiēta ecclesia de. S. impersonas a in eadem ad presentationem E. patronisse, &c.* So I haue reason to thinke, that *persona* is the patron, or hee that hath right to giue the benefice, by reason that before the *Lateran counsell* he had right to the tithes, in respect of his liberality vsed in the erection or endowment of the Church, *quasi sustineret personam ecclesia*, and he *persona impersonata* to whom the benefice is giuen in the patrons right. For I reade in the *Register Iudiciall personam impersonatam*, For the Rector of a benefice presentatiue and not appropriated, *fol. 34. b.* and see *Dyer fol. 40. num. 72.* where hee saith that a Deane and chapter be persons impersonces of a benefice appropriated vnto them. who also *fol. 221. num. 19.* plainly sheweth that *persona impersonata* is he that is inducted and in possession of a benefice. So that *persona* seemeth to be termed *impersonata*, onely in respect of the possession that hee hath of the benefice of Rectory, be it appropriated or otherwise by the act of another. And yet I haue talked with men of good opinion in the common law, that hold onely the proprietarie of

a b. notice to be the person personee. But if that were true, he should rather bee called person *parsonnier*. i. *partiarus vel particeps fructuum*, because the Vicare hath some parte toward his paines in seruing the cure. For (*parsonnier*) in the french tongue, is (*partiarus*) or (*particeps*.)

Partes finis nihil habuerunt, &c. is an exception taken against a fine levied. *Cookes reports lib. 3.* the case of fines fol. 88. a. b.

Parters of gold and siluer. See *Finours*.

Partitio facienda, is a writ that lieth for those, which hold lands or tenements *pro indiviso*, and would seuer to euery one his part, against him or them that refuse to ioyne in partition as Coparceners and Tenents in Gavel kind,ould: *nat. br. fol. 142 Fitz. nat. br. fol. 61. Register orig. fol. 76. 316. and Register iudiciall, fol. 80.* and the new book of *Entrise. verbo partitiō.*

Part let, seemeth to be some part of a mans attire, as namely, some loose collar of a dublet, to be set on or taken off by it selfe, without the bodies, as mens bands, or womens neckerchiefs be, which are in some places, or at least haue beene within memory, called partlets. This word is read in th: Ita-

tute, anno 24. H. 8. ca. 13. and seemeth to bee a diminutiue of the word (*part.*)

Paruo nocumento is a writ. See *Nusance*.

Passage (*passagium*) is a French word, signifying *transitū transi-tionem, meatum*. It signifieth in our common law, the hire that a man payeth for being transported over sea, anno 4. Ed. 3. cap. 7. or ouer any riuer. *Westm. 2. cap. 25. anno 13. Ed. pri.*

Passagio, is a writ to the keepers of ports, to let a man passe ouer, that hath license of the king, *Register original. fol. 193. b. 194. a.*

Passoport is, compounded of two french words (*Passer*) i. *per-ambulare, transire*) and (*port*) i. *portus*) It signifieth with vs, a license made by any that hath authoritie, for the safe passage of any man from one place to another. anno 2. Ed. 6. ca. 2.

Pasnage, pasuagium. See *Pasnage*.

Patent (*litera patētes*) is different from a writ, *Cromptons Iurisd. fol. 126.* The Coroner is made by writ, and not by patent. See *Letters patents*. See also *Litera patentes* in the table of the Register, where you shall finde the forme of diuers patents.

Patron (*Patronus*) is vsed in the

the Ciuile law, for him that hath manumitted a servant, and thereby is both iustly accompted his great benefactor, & challengeth certaine reverence and duty of him during his life: see the title *De iure patronatus*: in the Digest: with the Feudists it is vsed *pro autore feudi*. *Hotom verbo Patronus*, in his commentary *de verbis feudal*. In the canon law, as also in the feuds, & our common law, it signifieth him that hath the gift of a benefice. And the reason is, because the gift of churches and benefices originally belonged vnto such good men, as either builded them, or els indowed them with some great part of the reuenew belonging vnto them. *De iure patronatus* in the *Decretals*. Such might wel be called patrons, as builded the Church, or enriched it: but these that now haue the gift of a benefice, are more commonly patronized by the Church, though against her will, alwaies selling their presentations as deerely as they can: and therefore may bee called *Patroni a patrocinando*, as *Mons à monédo*. *Patronū faciūdos, edificatio, fundus*, saith the old verse *Of lay patrons* one writeth thus. *Quod autem a supremis pontificibus proditū est. (ea. cum dilectus, extra de iure patronatus) Laicos habere presentandi clericos Ordinarius: hoc sin-*

*gulari fauore sustinetur, ut alle-
ctētur laici, inuitētur, & inducā-
tur ad constructionē ecclesiarū
(c. quoniam. eodem) Nec omni ex
parte ius patronatus spirituale
censeri debet, sed tēporale potius
spirituali annexum (glos. in c. pia-
mentis. 16. qn. 7.)* These be Co-
rasius words in his paraphrase ad
sacerdotiorum materiam, parte
pri. cap. 2. & parte. 4. cap. 6. in
principio, he thus writeth of the
same matter. *Patroni in iure
Pontificio dicuntur qui alicuius
ecclesie extruenda, aut alterius
cuiuscunq; fundationis ecclesia-
stica authores fue unt, ideoq;
presentandi & offerendi clericū
ius hab nt, quem ecclesia vacāti
præesse, & in ea collatis rediti-
bus frui velint. Acquirunt autē
hoc ius, quide Episcopi consensu
vel fundāt ecclesiā, hoc est, locū
in quo tēplū extruitur, assignāt,
vel ecclesiā edificāt, vel etiam
constructas ecclesias ante conse-
crationem dotant, ut non valde
sit obscurū, ius patronatus quo
de agimus. finire, ius esse præsen-
tandi clericum ad ecclesiam va-
cantem ex gratia ei concessum,
qui consentiente Episcopo, vel
construxit, vel dotauit eccle-
siam.*

Pannage (*Pannagiū, aliās pas-
nagium*) or (*pennagium*) as it is
latined (*in pupilla oculi*) may be
probably thought to come of the
French (*panez*) or (*panets*) which

is a roote something like a par-
 (nep, but somewhat lesse and ran-
 ker in taste, which hogs in Fance
 feed upon, though it be eaten by
 men also; and the French may
 seem to come of the Latine (*pa-
 nicium*) i. that which men use
 in the steed of bread (*Iodorus*)
 or (*panicum*) of the French. It
 signifieth in our common law,
 the mony taken by the *Agistors*
 for the feede of hogs with the
 mast of the kings forest. *Crompt.
 Jurisd. fol. 165. West. 2. cap. 25.
 anno 13. Ed. pri.* with whom
M. Manwood parte pri. of his
 forrest lawes, agreeth in these
 words: *Agistment* is properly
 the common of herbage of any
 kinde of ground or land, or
 woods, or the mony due for the
 same: and *pawnage* is most pro-
 perly the mast of the woods, or
 lands, or hedge rowes, or the
 money due to the owner of the
 same for it. But this learned man
 in his second part. *cap. 12.* where
 he writeth at large of this, deri-
 veth the word from the Greeke
πανικω: at the which (I think)
 he smiled himselfe when hee set
 it downe. *Lindwood* defineth it
 thus: *Pannagium est pastus peco-
 rû in nemoribus & in sylvis, ut
 pascit de glandibus et aliis fructi-
 bus arborû syluestrium, quarû
 fructus aliter non solent colligi.
 titulo de decimis. ca. facta verb.
 Pannagis. M. Skene de verbo-*

rum signif. calleth it pannagium,
 and defineth it to be the duty gi-
 ven to the king for the pasturage
 of swine in his forest. The french
 word for the same thing is (*pa-
 nage*) or (*glandee*) i. *glandatio,
 vel glandium collectio, et pastio
 suum ex glâdibus.* And we sure-
 ly take it frō thr French, whence
 they had it, or what etymologie
 they make of it, let themselves
 looke.

Peace (pax) in the general sig-
 nification is opposite to war or
 strife. But particularly it signifi-
 eth with vs, a quiet & harmlesse
 carriage, or behaviour, toward
 the king and his people. *Lamb.
 eirenarcha. li. 1. ca. 2. pag. 7.* And
 this is one way provided for all
 men by oath, as you may read in
Frankpledge, but more especi-
 ally in case, where one particular
 man, or some few goe in danger
 of harme from some other. For
 upon his oath made thereof be-
 fore a Iustice of peace, he must
 be secured by good bond. See
Lamb. eirenarcha li. 2. c. 2. p. 77.
 See also *Cromptons* Iustice of
 peace. *fol. 118. b. & c. vsq; f. 129.*
 This among the Civilians is cal-
 led *cautio de non offendēdo.* *Gail
 de pace publ. lib. pri. c. 2. nu. 1.*

Peace of God and the church,
 (*pax Dei & ecclesia*) is anci-
 ently used for that rest which the
 kings subjects had from trouble
 and suite of law, betweene the

terms see *Vacation*.

Peace of the King. anno. 6. R. 2. stat. pri. ca. 13. is that peace and security both for life and goods, which the King promisseth to all his subjects or others taken to his protection. See *Suite of the Kings peace*. This poynt of policy seemeth to haue bene borrowed by vs from the Feudists, for in the second booke of the feuds, there is a chapter, viz. the 53. chapter intituled thus. *De pace tenenda inter subditos, & iuramento firmanda, & vindicanda, & de poena indicibus opposita, qui eū vindicare & iustitiam facere neglexerint*, the contents of which chapter, is a Constitution of *Fredericke* the first, as *Hotoman* there proueth. expounding it very learnedly and like himselfe. Of this Kings peace, *Roger Houeden* setteth downe diuers branches, parte poster. suorum annalium. in Hen. 2. fol. 144. a. b. and fol. 430. b. he mentioneth a forme of an oth which *Hubert* Archbishop of *Canterbury*, and chiefe Iustice of *Englad* in R. the first his daies, sent through the whole realme, to bee taken by the Kings subjects. See *Deciners*. See *Surety of peace*. There is also the peace of the Church, for which, see *Sanctuary*. And the peace of the Kings high way, which is the immunity that the Kings high

way hath, from all annoyance or molestation. See *Watlin street*. The peace of the plowe, whereby the plow and plow cattell are secured from distresses. For which, see *Fitz. nat. br. fol. 90. A. B.* So *Fayers* may be said to haue their peace, because no man may in them bee troubled for any debt else where contracted. See *Fayre*.

Pedage (*pedagium*) signifieth money giuen for the passing by foote or horse through any countrey. extra de Censibus, ca. Innotuamus. I read not this word in any English writer, but onely the author of the booke called *pupilla oculi parte 9. ca. 7. A. D.* I thinke we rather vse passage for it. *Pedagia dicuntur quae dantur à transeuntibus in locum constitutum à principe. Et capiens pedagium debet dare saluum conductum, & territorium eius tenere securum.* *Baldus in vñsibus Feudorum. de pa. iura fir. sect. Conuentionales.* *Cassan. de consuetud. Burg. pag. 118.* hath these words, *Pedagium à pede dictum est, quod à transeuntibus soluitur, &c.*

Peere (*pila*) seemeth properly to be a fortresse made against the force of the sea, for the better security of ships, that lye at harbour in any haue. So is the peere of *Douer* described in *M. Camd. Brit. p. 259. in meo.*

Peeres (*pares*) commeth of the French (*per. i. par*) it signifieth in our common law, plurally those, that are empaneled in an Enquest, vpon any man for the conuicting and clearing him of any offence, for the which he is called in question. And the reason thereof is, because the course and custome of our nation is, to trie euery man in this case by his equals. *West. prim. cap. 6. anno 3. Ed. prim.* So *Kitchin* vseth it fol. 78. in these words: *Mais si le amerciamēt soit assise per pares.* And this word in this signification, is not in vse with vs onely, but with other nations also. For *pares sunt conuasalli, quorū sententiā vassallus propter feloniam est condēnatus.* *Barklaus de Regno, lib. 4. ca. 2. Et pares sūt qui ab eodā domini feudum tenent, lib. 1. m. Feudor. ca. 26.* But this word is most notoriously vsed for those that be of the nobility of the Realme, and Lord, of the Parliament, and so is it vsed in *tanus pl.* of the Crowne *lib. 3. ca. Triall per les Peeres*, being the first. The reason whereof is, because though there be a distinction of degrees in our Nobility, yet in all publicke actions they are equal: as in their voices in Parliament, and in passing vpon the tryall of any Noble man, &c. This appellation seemeth to be borrowed from *Fraunce*,

and from those twelue *Peeres*, that *Charles the Great*, (or *Lewis the younger*, in some mens opinion) instituted in that kingdom, which be next vnto the King, and are of like dignity among themselves touching their power in publicke affaires. Of whom you may reade *Vincētius Lupanus de Magist. Frauncie lib. 1. cap. Pares Frauncie*. So that we though we haue borrowed the appellation, and applied it with some reason to all that are Lords of the Parliament, yet we haue no set number of them, because the number of our Nobles, may be more or lesse, as it pleaseth the King.

Pelota, is a word vsed in the booke called (*pupilla oculi*) *parte 5. ca. 22.* signifying the ball of the foote, of the French (*pelote*). *i. pila.*

Peinfort & dure. See *Painfort & dure*.

Pelt wooll, is the woll pulled off the skinn or pelt of dead sheepe, *anno 8. H. 6. cap. 22.*

Penon, *anno 11. R. 2. cap. prim.* is a Standard, Banner, or Ensigne, carryed in warre. It is borrowed from *Fraunce*: for *pennon* in the French language signifieth the same thing. See *Baneret*: yea read this word, *anno 11. R. ca. 1.*

Penue:

Penue: See *Baye*.

Peper (*Piper*) is a spice known in a manner to every childe, beeing the fruite of a plant, that is betweene a tree and an hearbe: of whose diversities and nature, you may reade *Gerards herball*, lib. 3. cap. 146. This is set among merchandize that are to be garbled. anno 1. *Iacob*. cap. 19.

Peper lowse, anno 32. H. 8. cap. 14.

Per, cui, & post. See *Entrie*.

Perambulatione facienda, is a writ that is siewed out by two or more Lords of maners, lying neere one another, and consenting to haue their bounds seuerally knowne. It is directed to the Shyretee, commanding him to make perambulation, and to set downe their certaine limits between them. Of this read more at large in *Fitz. nat. br.* fol. 133. See *Rationalibus divis.* See the *Regist. orig.* fol. 157. and the new book of Entries, *verbo*, *Perambulatione facienda*.

Perche (*pertica*) is a French word, signifying a long pole. It is vsed with vs for a Rodde or pole of 16. foote and a halfe in length. Whereof 40 in length and foure in bredth make an acre of ground. *Cromptons Juris* fol. 222. Yet by the custome of the countrie it may be longer, as he there saith. For in the Forrest of

Sheerwood it is 25. foot, fol. 224. *M. Skene de verbor. signif. verbo*, *Particata terra*, saith, that *particata terra* is a Roode of land: where he hath also these words in effect: Three beere cornes without taitles set together in length, make an inch: of the which cornes one should be taken of the middle ridge, one of the side of the ridge, another of the furrow. Twelue inches make a foot of measure: three foote and an inch make an elne; sixe elnes long make one fall, which is the common lineall measure, and sixe elnes long, and sixe broad, make a square and superficial fall of measured land. And it is to be understood, that one rod, one raip, one lineall fall of measure, are all one, for each one of them containeth sixe elnes in length. Howbeit, a rod is a staffe or pole of wood, a raip is made of tow or hempe. And so much land as falleth vnder the rod or raip at once, is called a fall of measure, or a lineall fall: becaufe it is the measure of the line or length onely. Like as the superficial fall is the measure both of length and bredth. *Item*, ten falles in length, and foure in bredth, make a Roode; foure Roodes make an acre, &c. This is the measure of Scotland, whereof you may reade more in the same place.

Pardonatio ut lagaria, in the Register iudiciall, fol. 28. is the forme of pardon for him, that for not comming to the Kings court is outlawd, and afterward of his owne accord yeldeth himselfe to prison.

Peremptorie (*peremptorius*) cometh of the verb (*perimere*) to cut of, and ioyned with a substantiue (as action or exception) signifieth a finall and determinate act without hope of renewing. So *Fitzh.* calleth a peremptory action, *nat. br. fol. 35. P. fol. 38. M. fol. 104. O. 2. R. fol. 108. D. G. and non-suite peremptorie. idem codem, fol. 5. N. F. fol. 11.* A peremptorie exception. *Bracton li. 4. ca. 20. Smith de rep. Anglorum, li. 2. ca. 13.* calleth that a peremptory exception, which can make the state and issue in a cause.

Perinde valere, is a dispensation graunted to a clerke, that being defectiue in his capacity to a benefice or other ecclesiastical function, is *defacto* admitted vnto it. And it hath the appellation of the words which make the faculty as effectiual to the party dispensed with, as if he had been actually capable of the thing, for which he is dispensed with, at the time of his admissiō.

Perkins, was a learned Lawyer, fellow and benchler of the inner Temple, that liued in the daies

of *Edw. the 6. and Queene Mary.* He writ a booke vpon diuers poynts of the common law of very great commendation.

Permutatione Archidiaconatus & ecclesie eidem annexa, cū ecclesia & prabenda, is a writ to an Ordinary commaunding him to admit a clerke to a benefice, vpon exchange made with another: Register orig. fol. 307. a.

Pernour of profits, cometh of the French verb (*prendre. i. accipere*) and signifieth him that taketh as *pernour of profits, anno 1. H. 7. ca. pri. Pernour de profits, & cesti que vse* is al one, *Coke. li. 1. casu Chudley. fol. 123. a.* See *Pernour, anno 21. R. 2. ca. 15.*

Per qua seruitia is a writ iudiciall issuing from the note of a fine, and lyeth for the cognizee of a maner, seignory, cheife rent, or other seruices to compell him that is tenant of the land at the time of the note of the fine leui- ed, to attorne unto him. *West. parte 2. symbol. titulo Fines. Sect. 126.* To the same effect speaketh the old *nat. br. fol. 155.* See also the new booke of *Entries. verbo per qua seruitia.*

Perquisite (*perquisitum*) signifieth in *Bracton*, any thing purchased. as *perquisitum facere. lib. 2. cap. 30. nu. 3. & lib. 4. ca. 22.* perquisites of court, be those profits that grow vnto the Lord of a maner, by vertue of his Court

Court Baron, ouer & aboute the certaine and yearly profits of his land, as escheats, mariages, goods purchased by villeines, fines of copie holds, and such like. New termes of the law.

Person. See *Parson*.

Personable, signifieth as much as inhabled to hold or maintain plee in a court. For example: the demaundant was iudged personable to maintaine this action. *old nat. br. fol. 142.* and in *Kitchin fol. 214*, The tenent pleaded that the wife was an alien borne in *Portingall* without the ligeance of the king, and iudgement was asked whether shee would be answered. The plaintife saith: she was made personable by Parliament, that is, as the Civilians would speake it, *habere personam standi in iudicio*. Personable is also as much as to be of capacity to take any thing granted or given. *Plowden, casu Colthirst. fol. 27. b.*

Personall (*personalis*) hath in our common law, one strange signification, being ioyned with the substantive, things, goods, or Chatels: as things personall, goods personall, Chatels personall, for thus it signifieth any corporeall, and moueable thing belonging to any man, be it quicke or dead. So it is vsed in *West. par. 2. symbo. titulo Indite-ments, sect. 58.* in these words. Theft is an vnlawfull felonious

taking away of another mans moueable personall goods. And again, *fol. 61.* *Larceny* is a felonious taking away of another mans moueable personal goods; & *Kitchin f. 139.* in these words: Where personall things shall be given to corporation: as a horse, a cow, an ox, sheep, hogs, or other goods, &c. and *Stawnf. rd. pl. cor. fo. 25.* *Contrectatio rei aliena*, is to bee understood of things personal: for in things real it is not felony, as the cutting of a tree is not felony. The real of this application, see *Chatell*.

Personalty (*personalitas*) is an abstract of personal. The action is in the personalty, *old. nat. br. fol. 92.* that is to say, brought against the right person, or the person against whom in law it lieth. I finde these contrarie words (*Personalitas & impersonalitas*) in the author of the book called *vocabularius triu- usq; iuris*: as for example, *Personalitas significatur per has dictiones, tu, mihi, ego, tibi, cum alio significato quod probabiliter cōcluditur: & si nullo modo cōcludatur, tunc est impersonalitas, quia actū vitiat, prout ratio dicitur, verbi gratia, ego stipulor: cōstituis te mihi soluturū debitū a Titio mihi debitum. Tu respōdes, Satis fiet. Hac impersonalitas non cōtrahit obligationem.*

Persons ne Prabendaries ne se-

ront charges as quinsimes, &c. is a writ that lyeth for prebendaries or other spirituall persons, being distreined by the shyreeue, or collectors of fifteenths, for the fifteenth of their goods, or to be contributory to taxes. *Fitzh nat. br. fol. 176.*

Pestorable wares, seeme to bee such wares, as pester and take vp much roome in a shippe, *anno 32. H. 8. cap. 14.*

Peter pence (*Denarii Sancti Petri*) otherwise called in the Saxon tongue *Romefeoh*. i. the fee of Rome, or due to Rome, & also *Romescot*, and *Rome penning*, was a tribute giuen by *Inas* King of the West Saxons being in pilgrimage at Rome, in the yeare of our Lord, 720. which was a peny for euery house. *Lamberds* explication of Saxon words. *verbo Numus*. whom see also *fol. 128. in St. Edw. laws. nu. 10.* where it is thus written. *Omnes qui habent. 30. denariatus vine pecunie in domo sua de suo proprio, Anglorum lege dabit denariū Sancti Petri, & lege Danorū, dimidiam markam: Iste verò denarius debet summoniri in solēnitate Apostolorū Petri & Pauli, & colligi ad festiuitatē, qua dicitur ad vincula: ita vt ultra illum diē non detineatur. Si quis piam detinuerit, ad Iusticiā Regis clamor deferatur, quoniā denarius hic Regis eleēmozana est,*

Iusticia verò faciat donarium reddere, & forisfacturā Episcopi & Regis. Quod si quis domos plures habuerit, de illa, ubi residens fuerit in festo Apostolorū Petri & Pauli denarium reddat. See also King *Edgars* lawes. *fol. 78. cap. 4.* which containeth a sharp constitution touching this mater. *Stow. in his Annals, pag. 67.* saith, that he that had 20. peniworth of goods of one maner cattell in his house, of his owne proper, was to give a peny at *Lammas* yearely. See *Romescot*.

Petit Cape. See *Cape*.

Petit Larceny (*paruum latrocinium*) See *Larcenye*.

Petit treason (*parua traditio*) in true French is (*petit trahizon*. i. *proditio minor*) treason in a lesser or lower kinde. For whereas treason in the highest kinde, is an offence done against the security of the common wealth, *West. parte 2. symb. titulo Inditement., sect. 63.* *petit treason* is of this nature, though not so expressly as the other. Examples of *petit treason* you shall finde to be these: if a seruant kill his master, a wife her husband, a secular or religious man his prelate, *anno 25. Edw. 3. cap. 2.* Whereof see more in *Stawm. pl. cor. lib. 1. cap. 2.* See also *Cromptons Iustice of peace. fol. 2.* where he addeth diuers other examples to those of *Stawmford*. For the punishment

nishment of petit treason, see the statute, anno 22. H. 8. cap. 14. and *Crompton ubi supra*.

Petition (*petito*) hath a general signification for all intreaties made by an inferiour to a superiour, and especially to one having iurisdiction: But most especially it is vsed for that remedie, which the subiect hath to helpe a wrong done, or pretended to be done by the King. For the King hath it by prerogative, that he may not be siewed vpon a writ *Stawn. prar. cap. 15.* whom also reade *cap. 22.* And a petition in this case is either generall, or speciall. It is called general of the general conclusion let downe in the same *viz. que le Roy lui face droit & reison*, that the King doe him right and reason: wherevpon followeth a generall indorsement vpon the same. *soit droit fait aux partis*, let right be done to the partise. *Petition* speciall is where the conclusion is speciall for this or that: and the Indorsement to this is likewise speciall. See the rest *cap. 22.*

Petralane, a stone of wooll. See *Stone*.

Philiser, See *Filazer*.

Picage (*piccagium*) is mony paid in faires for breaking of the ground to set vp boothes or standings.

Picle, aliàs *pitle*, seemeth to come from the Italian (*piccolo vel picciolo. i. parvus, minutus*) and signifieth with us a little small close, or inclosure.

Pienour, commeth of the French (*Pionnier. i. fossor*) and signifieth such labourers, as are taken vp for the Kings host, to cast trenches, or vndermine forts anno 2. & 3. Ed. 6. cap. 20.

Piepowders court (*Curia pedis pulverizati*) comes of 2 French words (*pie. i. pes*) & *pouldrenx. i. pulverulentus*) It signifieth a court held in fairs for the redres of all disorders comitted within them: which because it is sumary, *de plano, & sine figura iudicii* it hath the name of dustie feete, which we comonly get by sitting neere the ground: of this see *Croptons Iurisd. fol. 221.* Read *M. Skene. de ver. signif. verbo Pedepulversus*: which word hee reporteth to signifie a vagabond, especially a merchant, which hath no place of dwelling, where the dust may bee wiped off his feet or shooes, & therefore must haue iustice summarily ministred vnto him, *viz.* within three flowings & three ebbings of the sea. *Bract.* calleth it *Iustitiā pe-poudrous, li. 5. tract. 1. c. 6. nu. 6.* Of this court reade the statute anno 17. Ed. 4. ca. 2.

Pille of Foddray, in the countie of Lancaster. an. 2. H. 6. ca. 5

seemeth to be a creeke, and called pile by the ideom of the country for pile; for the which see *Pile*.

Pillorie (*Collistrigiu*, *Piloriu*) commeth of the French (*Pillorie*) which may seeme to smell of the greeke, and to proceede from (*πυλιν*) because one standing on the pillory, putteth his head through a kind of doore, *i. ianna: ὄρα*, *i. video*: it signifieth all one thing with it, saving that the French is vsed for a tumbrell, as well as for that which we call the pillorie. There is a statute made of the pillorie, *anno 51. H. 3.* wherein you may see who were then subiect to this punishment. This was among the Saxons called *Healsfang*, of (*Heals*) a neck, and (*Fang*) to take, *Lamb. explication of Saxon words. verbo Multa*.

Pipe (*pipa*) seemeth to bee a rolle in the exchequer, otherwise called the great rolle, *anno 37. Ed. 3. ca. 4* See *Clerk of the pipe*. It is also a measure of wine or oyle, containing halfe a tunne, that is sixe score & sixe gallons, *anno 1. R. 3. cap. 13.*

Piscarie (*piscaria*) commeth of the French (*pescharie. i. piscario*) It signifieth in our common law, a liberty of fishing in an other mans waters.

Pittle, See *Picle*.

Placard, anno 2. & 3. Ph. & Mar. cap. 7 is a licence whereby a man is permitted to maintaine vnlawfull games.

Plaint (*Querela*) is a French word, signifying as much as *questus, querimonia*. In our comon law, it is used for the propounding of any action personall, or reall in writing. So it is vsed in *Brook, titulo. Plaint in Affise*; & the party making this plaint, is called plaintiff: *Kitchin, fol. 231*

Plea (*placitum*) commeth of the French (*plaid. i. lis, oïtroversia.*) It signifieth in our common law, that which either party alladgeth for himselfe in court. And this was wont to be done in French from the Conquest, vntill *Edward the 3.* who ordained them to be done in English. *a. 36. cap. 15.* Pleas are divided into pleas of the Crowne, and common pleas. Pleas of the Crowne in Scotland be 4. roberie, rape, murder, & wilfull fire, *Skene de verb. sign. verb. Placitum.* with vs they bee all suites in the Kings name, against offences committed against his Crowne and dignity. *Stamf. pl. cor. cap. 1.* or against his Crowne and peace. *Smith de Repub. Angl. li. 2. cap. 9.* And those seeme to be treasons, felonies, misprisions of either, and mayhem. For those onely doth that reverend Iudge

Judge mention in that tractat. Common pleas be those that be held betweene common persons. Yet by the former definitions, these must comprise all other, though the King be a partie. Plea may farther bee diuided into as many branches as Action, which see. For they signifie all one. Then is there a Forein plea, whereby matter is alleged in any Court that must be tryed in another. As if one should lay Bastardy to another in a court Baron. *Kitchin. fo. 75.* The word (*placitum*) is vsed by the Commentours vpon the Feuds in the same signification that pleas bee with vs. And (*placitare*) with them is (*litigare, & causas agere.* *Hotom. in verb. feudal. verb. Placitare.*

Pledge (*Plegius*) com-meth of the French (*Pleige. i. fideiussor*) *Pleiger aucun. i. fideiubere pro aliquo.* In the same signification is *Plegius* vsed by *Glannile. libro decimo, capite quinto, and Plegiatio* for the act of suretiship in the interpreter of the Grand Custumary of Normandy, *capite 60. Plegii dicuntur persona quæ se obligant ad hoc, ad quod qui eos mittit tenebatur.* And in the same booke, *capit. 89. & 90. Plegiatio* is vsed as *Glannile*

before doth vse it. *Salui plegii*, he vsed for *Plegii, pupill. oculi, parte quint. capit. 22. Charta de Foresta.* This word *Plegius* is vsed also for *Franke pledge* sometime, as in the end of *William the Conquerours* laws set out by Master *Lambard* in his *Archaionum. fol. 125.* in these words. *Omni homo qui voluerit se tenere pro libro, sic inplegio, ut plegius eum habeat ad Insitiam, si quid offenderit, &c.* And these bee called capitall pledges. *Kitchin. folio decimo.* See *Frank pledge.*

Plena forisfactura, and *plena vita*, see *Forfeiture.* *Plegiis acquietandis* is a writ that lyeth for a surety against him, for whom he is surety, if he pay not the money at the day. *Fitzh. nat. br. fol 137. Regist. original. 158.a.*

Plenary, is an abstract of the adiectiue (*plenus*) and is vsed by our common Lawyers in matters of benefices. Wherein *plenary* and *vacation* be meereley contrary. *Stawford. prerogativ. cap. octau. fol. 32. Westm. secundo, capit. quint. anno 13. Edward. pri.*

Plevin (*plenina*) com-meth of the French (*plexine i. sponsio*)

See *Replevin*.

Plite of Lawne, &c. an. 3. Ed. 4. ca. 5. seemeth to be a certaine measure, as a yard, or elle, &c.

Plonkets. anno 1. R. 3. cap. 8. is a kinde of wollen cloth.

Pluries, is a writ that goeth out in the third place. For first goeth out the original *Capias*: which if it speede not, then goeth out the *Sicut aliàs*: and if that faile, then the *Pluries*. See *old nat. br. fol. 33.* In the writ *De excom. capiendo*, see in what diuersity of cases this is vsed in the Table of the *original Regist.*

Pole. See *Perch*.

Polein, anno 4. Ed. 4. cap. 7. seemeth to be a sharpe or picked toppe set in the forepart of the shooe or boote. This fashion was first taken up in *Richard* the seconds dayes, the pickes being made so long as they were tyed vp to the knees with siluer or golden chains, and forbidden by *Edw.* the fourth. *Stow. pag. 4.*

Policy of assurance, is a course taken by those which do aduventure wares or merchandize by sea, whereby they, loth to hazard their whole aduventure, doe giue vnto some other a certaine rate or proportion, as tenne in the hundred, or such like, to secure the safe ariuall of the ship, and so much wares at the place

agreed vpon. So that if the ship and wares do miscarry, the assurer maketh good to the venturer so much as hee promised to secure, as 20. 30. 100. more or lesse: and if the ship do safely ariue, he gaineth that clearely which the venturer compoundeth to pay him. And for the more even dealing between the venturer and the securer in this case, there is a certaine Clerk or officer ordained to set downe in writing the summe of their agreement, that they afterward differ not betweene themselves vpon the bargain. This is in course Latine else where called *assecuratio*. This Terme you haue *anno 43. Eliz. cap. 11.*

Pondage. See *Poundage*.

Pone, is a writ, whereby a cause depending in the County court, is remoued to the common Banke. *old nat. br. fol. 2.* See in what diuersity of cases it is vsed, in the table of the *Original Register*.

Pone per vadiū, is a writ commaunding the Shyreue to take surety of one for his appearance at a day assigned: of this see five sorts in the table of the *Register Iudic. verbo, Pone per vadium.*

Ponendis in Assis, is a writ founded vpon the statute of *Westm. 2. ca. 38.* and vpon the statute *Articuli super chartas. c. 9.* which statutes do shew, what

Persons Vicounts ought to impanell vpon Affizes and Iuries, & what not: as also what number he should empanel vpon Iuries and Inqueits, which see in the *Regist. orig. fol. 178. a.* and in *Fitz. nat. br. fol. 165.*

Ponendo in ballum, is a writ whereby to will a prisoner held in prison to bee committed to baile in cases baylable. *Register orig. fol. 133. b.*

Ponendo sigillum ad exceptionem, is a writ whereby the king willeth Iustices, according to the statute of *West. 2.* to put their seales to exceptions laid in against the plaintiffes declaration by thy defendant.

Pontage (pontagium) is a contribution toward the maintenance or reedifying of bridges. *Westm. 2. cap. 25. anno 13. Ed. pri.* It may be also tolle taken to this purpose of those that passe ouer bridges, *anno 39. Eliz. cap. 24. anno 1. H. 8. cap. 9.* & see the statute *anno 22. H. 8. cap. 5.*

Pontibus reparandis, is a writ directed to the Shyreuee, &c. willing him to charge one or more to repaire a bridge, to whom it belongeth. *Regist. orig. fol. 153. b.*

Portgreue (portgrenius) is compounded of two words (*port*) & (*greue*) or (*grane*). i. *praefectus*. It signifieth with us the chiefe magistrate in certaine coast townes,

and as *M. Cambden* saith in his *Britan. pag. 325.* the chiefe magistrate of *London*: was termed by this name: in stead of whom *Richard* the first ordeined 2 Bayliffes: but presently after him, *King John* granted them a Maior for their yeerely Magistrate.

Porter of the doore of the Parliament house, is a necessary officer belonging to that high court, & enioyeth the priuiledges accordingly. *Cromptons iuri. d. fo. 11.*

Porter in the circuit of Iustices, is an officer that carryeth a verge or white rod before the Iustices in *Eyre*. so called, a *portado virgam*, *anno 13. Ed. 1. cap. 24.*

Porter bearing verge (virgator) before the Iustices of either bench, *anno 13. Ed. 1. cap. 41.* See *Vergers.*

Portmote, is a word compounded of (*port. i. portus*) and the Saxō (*Gemetā. i. conuenire*) or of the French (*mot. i. dictio, verbum*) It signifieth a Court kept in hauen townes, as *Swainmoot* in the forest *Māwod*, parte *prim.* of his forest lawes, *pa. 111.* it is sometimes called the *Portmoot Court*, *an. 43. Eli. ca. 15.*

Portsale, *anno 35. H. 8. cap. 7.* i. sale of fish presently vpon retorne in the hauen.

Possession (possessio) is vsed two waies in our common law. First for lands and inheritance: as, he is a man of large possessions. In

which signification it is also vfed among the Civilians *sc:* for the thing possessed, *l. possessionē: Cod. commun. utriusq; Indic.* Next, for the actual enioying of that, which either in truth or pretence is ours. And in this signification there is possession indeed, and possession in law: *pl. cor. fol. 198.* The example there is this: Before or vntill an office bee found, the King hath onely possession in law, and not indeed, speaking of the lands escheated by the attainder of the owner. See *Prerog. fol. 54. & 55.* In this signification also there is an unitie of possessiō, which the Civilians call *Consolidationem*. Take an example out of *Kitchin, fol. 134.* if the Lord purchase the tenancy held by Heriot seruice, then the Heriot is extinct by vnity of possession: that is, because the feignury and the tenancy be now in one mans possession. Many diuisions of possession you may reade in *Bracton. lib. 2. cap. 17. per totam.*

Post. See Per.

Post. diem, is a returne of a writ after the day assigned for the returne: for the which the *Custos breuiū* hath foure pence, whereas hee hath nothing, if it be returned at the day: or it may be the fee taken for the same.

A Post fine, is a duty belonging to the king for a fine formerly acknowledged before him in his court which is paid by the cognizee, after the fine is fully passed, and all things touching the same wholly accomplished. The rate thereof, is so much and halfe so much, as was payed to the King for the fine, and is gathered by the Shyreue of the County where the land, &c. lyeth, whereof the fine was leuyed, to be answered by him into the Exchequer.

Post terme, is a returne of a writ, not onely after the day assigned for the returne thereof, but after the terme also, which may not be receiued by the *Custos breuium*, but by the consent of one of the Iudges: it may be also the fee which the *Custas breuium* taketh, for returne thereof, which is twenty pence.

Postea, is a word vfed for a matter tryed by *Nisi prius*, and returned into the court of common pleas for Iudgement, and there afterward recorded. See *Plowden, casu Saunders. fo. 211. a.* See an example of this in *Sir Edm. Cokes reports. volum. 1. Rowlands case. fol. 41. b. & 42. a.* See *Custas breuium*.

Post disseisen (*post disseisina*) is a writ giuen by the statute of *We. 2. cap. 26.* and lyeth for him that
having

hauing recovered lands or tenements by (*præcipe quod reddat*) vpon default, or reddition, is againe disseised by the former disseisour. *Fitz. nat. br. fol. 190.* see the writ that lyeth for this in the *Register originall*, fol. 208. a.

Posteriority, (*posterioritas*) is a word of comparison and relation in tenure, the correlatiue whereof is *prioritie*. For a man holding lands or tenements of two lords, holdeth of his auncienter Lord by priority, and of his later Lord by posterioritie. *Stam. prærog. fol. 10. & 11.* when one tenent holdeth of two Lords, of the one by prioritie, of the other by posterioritie, &c. *old nat. br. fol. 94.*

Pourchas (*perquisitum*) cometh of the French (*pourchasser*, i. *sollicitare, ambire*;) it signifieth the buying of lands or tenements with money, or other agreement, and not the obtayning of it by title or descent. *Coniunctum perquisitum*. Ioynt purchase. *Regist. originall*, fol. 143. b.

Pour faire proclamer, que nul enieit fimes ou ordures en fosses ou riuers pres citiez, &c. is a writ directed to the Maior, Shyreue, or Bayliffe of a Citie or Towne, commanding them to proclaime, that none cast filth into the ditches, or places neare adioy-

ning: and if any be cast already, to remoue it. This is founded vpon the statut, anno 12. *Rich: 2 cap. 13. Fitz. nat. br. fol. 176.*

Pourparty (*propars, propartis, vel propartia*) is contrary to (*pro indiuiso*) For to make pourparty is to diuide, and sever the lands that fall to *Parceners*, which before partition they hold ioyntly, and *pro indiuiso*. *old. nat. br. fol. 11.*

Pourpresture (*pourprestura, vel porprestura, vel paraprestura*) seemeth to come frō the French (*pourpris. i. conseptum*) It is thus defined by *Glanville, lib. 9. cap. 11. Pourprestura est proprie, quando aliquid super Dominum Regem iniuste occupatur. Ut in Dominicis Regis, vel in vijs publicis obstructis, vel in aquis publicis transversis à recto cursu: vel quando aliquis in ciuitate super regiā plateam aliquid edificando occupauerit: & generaliter, quoties aliquid fit ad nocumentum Regis tenementi, vel Regie via, vel ciuitatis.* *Crompt. in his Iurisd. fol. 152.* defineth it thus: *Pourpresture* is properly when a man taketh vnto himself or inerocheth any thing that he ought not, whether it be in any Iurisdiction, land, or fraunchis: and generally, when any thing is done to the Nufance of the kings tenents. *Et idem, eodē, fol. 203.* saith to the same effect, but more

more at large. See *Kitchin. fol. 10. and Manwood, parte prim. of his forest laws, pag. 169. & parte 2. cap. 10. per totum.* See *Skene de verbo. signif. verb. Purpresture.* where he maketh three sorts of this offence: one against the King, the second against the Lord of the fee: the third, against a neighbour by a neighbour lying neare vnto him.

Pour seisir terres la femme que ti-ent en Dower, &c. is a writ whereby the King seizeth upon the land, which the wife of his Tenant that held in *Capite*, deceased, hath for her dowry, if she marry without his leaue, and is grounded vpon the statute of the Kings prerogative, *cap. 3.* see *Fitzb. fol. 174.*

Poursuyuant, commeth of the French (*poursuivre. i. agere, agitare, persequi*) It signifieth the messenger of the king attending vpon him in wars, or at the counsell table, the Starre Chamber, Exchequer, or commission court, to be sent vpon any occasion, or message, as for the apprehension of a party accused, or suspected of any offence committed. Those that be vsed in marshall causes, be called *Perfwins* at armes, *anno 24. Henr. 8. cap. 13.* whereof there be foure in number of special names, which see in *Herald.* And *M. Stowe* speaking of *Richard* the third

his end *pag. 784.* hath these words: For his body was naked to the skinne, not so much as one clout about him, and was trusted behinde a Pursuyuant at armes, like a hogge or a calfe, &c. The rest are vsed vpon other messages in time of peace, and especially in matters touching iurisdiction. See *Herald.*

Pourueyour. (*pronisor*), commeth of the French (*pourvoir. i. providere prospicere*) It signifieth an officer of the King or Queen, or other great personage that prouideth corne and other victuall, for the house of him whose officer he is. See *magna charta. cap. 22. & 3. Ed. prim. cap. 7. & cap. 31. & anno 28. eiusdē. Articuli super chartas.* 2 and many other statutes gathered by *Rastal* vnder this title.

Powldanis. anno 1. Iacob. ca. 24.
Power of the countie. (*posse comitatus*) by *M. Lamberds* opinion in his *Eirenar. li. 3. ca. 1. fo. 309.* containeth the ayde and attendance of all Knights, gentlemen, yeomen, labourers servants, apprentices, and villaines: and likewise of Wards, and of other young men about the age of fiftene yeares, within the county, because all of that age are bound to haue harnesse, by the statute of *Winchester.* But women, ecclesiasticall persons,

sons, and such as be decrepit or doe labour of any continuall infirmity, shall not be compelled to attend. For the statute 2. H. 5. cap. 8. (which also worketh vpon the same ground) saith, that persons sufficient to trauell, shall be assistant in this seruice.

Pound (*parcus*) seemeth to signifie generally any inclosure of strength to keep in beasts: but especially, with vs, it signifieth a place of strength to restraine catell being distrained or put in for any trespass done by them, vntill they be repleuied or redeemed. And in this signification it is called a pound *ouert*, or open pound being builded vpon the waste of some Lord within his fee, and is called the Lords pound. For he prouideth it to his vse, and the vse of his tenants. See *Kitchin fol. 144.* It is diuided into pound open, and pound close: pound open or ouert, is not onely the Lords pound, but a backside, court, yarde, pasture, or else whatsoeuer, whither the owner of any beasts impounded may come to giue them meate and drinke without offence, for their being there, or his comming thither: pound close is then the contrary *viz.* such a one as the owner cannot come vnto, to the purpose aforesaid without offence, as

some close house, or such like place.

Poundage, is a Subsidy granted to the King of all maner of merchandies of euery merchant denizen and alien, carryed out of this realme, or brought into the same by way of Merchandize, to the valew of twelue pence in euery pound, *anno 12. Ed. 6. cap. 13. anno 31. Eliz. cap. 5. anno 1. Iacobi, cap. 33.*

Pray age. See *Age prier.*

Pray in ayd. See *Ayd.*

Prebend (*prabenda*) is the portion, which euery member or Canon of a Cathedrall church receiueth in the right of his place, for his mainetenance. And though vse haue wrought the latine word into the nature of a Substantiue: yet I thinke it originally to be an adiectiue, or participle, and to haue beene ioyned with (*pars* or *partio*) as (*Canonica portio*) which is in maner all one in significatiō. How be it (*Canonica portio*) is properly vsed for that share which euery Canō or Prebendary receiueth yearly out of the cōmon stock of the Church: and *prabenda* is a feuerall benefice rising frō some temporall land, or church appropriated, toward the maintenance of a clerk, or member of a collegiat Chnrch; and is commonly surnamed of the place, whence, the profit groweth. And Pre-

bonds be either simple, or with dignity. Simple Prebends be those, that haue no more but the reuenew toward their maintenance: Prebends with dignity are such, as haue some Iurisdiction annexed vnto them, according to the diuers orders in euery seuerall Church. Of this see more in the title. *De Prabendis, & dignitat.* in the *Decretals.* *Alciat* saith, that (*prabenda*) in the plurall number and neuter gender was anciēclly vsed: as now (*prabenda*) in the singular number, and feminine gender is vsed. *parerg. ca. 43.*

Prabēdary (*prabēdarius*) is he that hath a *prabēd*: See *Prabend.*

Præcept (*præceptū*) is diuersly takē in the cōmon law: sometime for a commandement in wrighting sent out by a Iustice of peace, or other for the bringing of a person one or more, or records before him: of this you haue examples of diuers in the table of the *Reg. Iudiciall*: And this vse seemeth to be borrowed from the customes of *Lōbardy*, where *præceptū* signifieth *scripturam, vel instrumentū.* *Hot. in verbis feudal. & libro 2. Cōmentariorū in libros feud. rū. in præfatione.* omtime it is taken for the prouocation. whereby one man inciteth another to commit a felony, as theft, or murder. *Stawf. pl. cor. fol. 105. Bratton*

calleth it) *præceptū*) or (*mandatū*) *lib. 3 tract. 2. ca. 19.* whence a man may obserue three diuersities of offending in murder: *Præceptū fortia, cōsiliū: præceptum,* being the instigation vsed before hand, *fortia,* the assistance in the fact, as helpe to binde the party murdered, or robbed: *cōsiliū,* aduise either before, or in the deed. The Ciuilians vse (*mandatum*) in this case, as appeareth by *Angelus in tracta. de maleficio. vers. Sempronium Mandatorem.*

Præceptories, an. 32. H. 8. cap. 24. were benefices in a kind, and termed preceptories, because they were possessed by the more eminent sort of the Templers, whom the chiefe master by his authority created, and called (*præceptores Tēpli*) *Ioach. Stepha. de Iurisdic. li. 4. ca. 10. nu. 27.* See *Comaundry.*

Præcipe quod reddat, is a writ of great diuersity touching both the forme and vse, for better declaration whereof see *Ingressu*, and *Entry*. This forme is extended as well to a writ of right, as to other writs of entry, or possession. *old. nat. br. fol. 13.* and *Fitzh. nat. br. fol. 5.* And it is called sometime a writ of *Right close*, as a *præcipe in capite*, when it issueth out of the court of common pleas for a tenant holding of the King in chiefe, as

of his Crowne, and not of the King, as of any honour, castle, or maner. *Register orig. fol. 4 b. Fitz. nat. br. fol. 5.* F. Sometime a writ of Right patent: as when it issueth out of any Lords court, for any of his tenants deforced, against the deforcer, and must be determined there. Of this reade more at large in *Fitz. nat. br.* in the very first chapter or writ of all his booke.

Pramunire, is taken either for a writ, or for the offence whereupon this writ is granted. The one may well enough be vnderstood by the other. It is therefore to be noted, that the church of *Rome* vnder pretence of her supremacy and the dignity of *Saint Peters chaire*, grew to such an inroching that there could not be a benefice (were it Bishoprick, Abbathy, or other) of any worth here in England, the bestowing whereof could escape the Pope by one meanes or other. In so much, as for the most part hee granted out Mandats of ecclesiasticall livings, before they were voyde to certaine persons by his bulls, pretending therein a great care to see the Church provided of a Successor before it needed. Whence it grew that these kinde of Bulls were called (*Gratia expectativa*) or (*Provisiones*) whereof you may read a learned discourse in *Duarenus*

that worthy Ciuilian in his treatise: *De beneficiis lib. 3. c. 1.* and in this treatise *De immunitate ecclesie Gallicane*. These provisions, were so rife with vs, that at the last, King *Edw.* the third, that heroicall Prince, not digesting so intolerable an oppression, made a statute in the 25. yeare of his raigne, *stat. 5. cap. 22.* and another *stat. 6. eiusdem anni. cap. pri.* and a third *anno 27.* against those that drew the Kings people out of the Realm, to answer of things belonging to the Kings court; and another *anno 28. statu. 2. c. 1. 2. 3. & 4.* to the like effect: whereby he greatly restrained this liberty of the Pope. Yet such was the wantonnesse that grew out of his power, & the num patiēce of princes in those daies, that he stil aduented the continuance of these provisions: in so much as King *Richard* the second made likewise a statute against them in the 12. yeare of his reigne, *ca. 15.* and the 13. yeare *stat. 2. ca. 2.* making mention of the said first statute of *Edward* the third, ratifying the same, and appointing the punishment of those, that offended against it to bee perpetuall banishment, forfeiture of their lands, tene-ments, goods, and catels, as by the same doth more at large appeare. And againe in the 16.

yeare of his raigne, *cap. 5.* to meet more fully wth all the shifts inuented to defraude these former statutes he expresth the offence more particularly, and setteth the same punishment to it, that he ordeyned in the last former statute. For there toward the end hee hath these words: If any purchase or pursiew or do to be purchased, or pursiewed in the court of Rome, or else where any such translations, proceses and sentences of excommunication, Buls, Instruments, or any other things, &c. After him, *K. H.* the fourth in like maner greued at this importunie by other abuses not fully met within the former statutes in the second year of his reigne, *cap. 3. & 4.* addeth certaine new cases, and layeth vpon the offenders in them the same censure, whereunto for shortnesse sake I referre you: admonishing likewise to adde the statute, *anno 9. eiusdem cap. pri. & anno 7. ca. 9. & 8. & anno 9. eiusdem c. 8. & anno 3. H. 5. c. 4.* Out of which statutes haue our professors of the common law, wrought many dangers to the Iurisdiction ecclesiasticall, threatening the punishment contained in the statute *anno 27. Edw. 3. & 38. eiusdem*, almost to euery thing, that the court Christian dealeth in, pretending all things delt

within those Courts to be the disherison of the Crowne, from the which, and none other fountaine, all ecclesiasticall Iurisdiction is now deriued: whereas in truth *Sir Tho. Smith* saith very rightly and charitably, that the vnting of the supremacy ecclesiasticall and temporall in the king vtterly voydeth the vse of al those statutes, *Nam cessante ratione, cessat lex.* And whatsoever is now wrought or threatened against the Iurisdiction ecclesiasticall, by colour of the same, is but in emulation of one court to another and by consequent a derogation to that authority from which all Iurisdiction is now deriued, and the maintenance whereof was by those Princes especially purposed. But of this reade *Sir Thom. Smith li. 3. de Rep. Ang. cap. 9.*

Some later statutes doe cast this punishment vpon other offenders; as namely the statute, *anno 1. El. cap. primo*, vpon him that denyeth the Kings supremacy the second time, &c. and the statute *anno 13. El. cap. 2.* vpon him that affirmeth the authority of the Pope: or that refuseth to take the oath of supremacy. and the statute *an. 13. El. cap. 1.* such as be seditious talkers of the inheritance of the Crowne, or affirme the Queens Maieitie

to be an heretique. And the word is applyed most commonly to the punishment first ordeined by the statutes before mentioned, for such as transgressed them: but in later times imposed vpon other offences. For that, where it is said that any man for an offence committed shall incurre a *premunire*, it is meant, that he shall incurre the same punishment, which is inflicted against those that transgresse the statute made, *an. 16.R.2.c.5.* which is commonly called the statute of *premunire*, which kinde of reference is not vnusuall in our statutes. For example, I shew onely the statute, *anno 5. El.ca.5.* where it is enacted that if any man preach or teach by wrighting, that the comon counsell of the Realme doe by that statute forbid flesh to be eaten, as of necessity for the sauing of mans soule, that he shall for such preaching, &c. be punished as they be, which be spreaders of false newes: hauing reference thereby to those statutes, which containe the punishment of such offenders.

Now touching the Etymologie of this word (*Pramunire*) some thinke it proceedeth from the strength giuen to the Crown by the former statutes, against the vsurpation of forein and vn-

naturall power: which opinion may receiue some ground from the statute, *ann. 25. Ed. 3. stat. 6 cap. pri.* But other thinke it to grow from the verb (*Pramunere*) being barbarously turned into (*pramunire*) which corruption is taken from the rude Interpreters of the Ciuile, and Canon lawes, who indeed doe vse the effect (*Pramunire*) many times for the efficient cause (*Pramonere*) according to our prouerbe: He that is well warned, is halfe armed. And of this I gather reason from the forme of the writ, which is thus conceiued in the old nat. br. f. 143. *Pramunire facias prefatum prepositū & I. R. procuratorē, &c. quod tunc sint corā nobis, &c.* for these words can be referred to none, but parties charged with the offence.

Prepositus villa, is vsed sometime for the Constable of a town, or petit Constable. *Cr. m. Jurisd. fol. 205.* howbeit the same author. *fol. 194.* seemeth to apply it otherwise, for there *quatuor homines prepositi*, bee those 4. men, that for euery town must appeare before the Iustices of the Forest in their circuit. It is vsed sometime for a Reeve. See *Reeve.*

Prerogative of the King (*prerogativa regis*) is that especial power,

power, preeminence, or privileged that the King hath in any kinde over and above other persons, and aboute the ordinarie course of the common law, in the right of his crown. And this word *Prærogativa* is vsed by the Civilians in the same sense. *l. Rescriptū. 6. Sect. 4. ꝛ. de hono. & muner.* But that privileged that the Romane Emperour had above common persons, they for the most part comprised *sub in- rescripti. ꝛ. de in rescripti, per totum tit. & Co. li. 10. tit. 1.* Among the Feudists this is termed (*ius regaliū, ius regaliū vel à nonnullis ius regaliū*) But as the Feudists, *sub iure regaliū*, so our Lawyers (*sub prærogativa regis*) doe comprise also, all that absolute height of power that the Civilians call (*maiestatē, vel potestātē, vel ius imperij*) subiect only to God: which *regalia* the Feudists diuide into 2 sorts, *maiora sc. & minora regalia.* for to vse their owne words, *Quedam regalia, dignitatē, prærogativā, & imperij præminentia spectāt: quedam verò ad utilitatem, & commodum pecuniarium immediate attinent: & hac propriè fiscali sunt, & ad ius fisci pertinent.* *Peregrini de iure fisci, li. 1. cap. 1. nu. 9.* See also *Arnoldus Clapmarinus. de arcanis imperij. lib. 1. cap. 11. & seqq.* who seemeth to make difference be-

tween *maiestatē, & ius regali- orū.* Others make those (*maiora regalia*) that appertain to the dignity of the prince, and those *minora*, which enrich his cofers. *Regnerus Sixtinus, de iure rega. cap. 2.* By this it appeareth, that the statute of the Kings prerogative made, *an. 17. Ed. 2.* contains not the summe of the Kings whole prerogative, but onely so much thereof, as concerns the profit of his cofers growing by vertue of his regall power and crowne; for it is more then manifest, that his prerogative reacheth much farther: yea euen in the matters of his profit, which that statute especially consisteth of. For example, it is the Kings prerogative to grant protection vnto his debtours against other creditours, vntill himselfe be satisfied. *Fitz. nat. br. fol. 28. B.* to distreine for the whole rent vpon one tenant, that hath not the whole land. *Idem fol. 235. A.* to require the ancestors debt of the heire, though not especially bound. *Brit. ca. 28. fo. 65. b.* to seise vpon money paid by his debtour into a court, for the satisfaction of an executor. *Plowden, fol. 322. a.* to permit his debtours to siew for their debts by a (*Quominus*) in the exchequer. *Perkins Graunts. 5.* to be first paid by one that oweth money both to him

him and others, *Dyer. fol. 67. nu. 20.* to take the lands of accountants into his hands for his own satisfaction. *Plowd. casu Almes. fol. 321. & 322.* to take his actiō of account against executors, *eodem fol. 320.* not to be tyed to the demand of his rent. *Coke. li. 4. fo. 73. a.* Now for those regalities which are of the higher nature (all being within the compasse of his prerogative, & iustly to be comprised vnder that title) there is not one that belōged to the most absolute prince in the world, which doth not also belong to our King, except the custome of the nations so differ (as indeed they doe) that one thing be in the one accounted a regality, that in another is none. Onely by the custome of this kingdome, he maketh no lawes without the consent of the 3. Estates, though he may quash any law concluded by them. And whether his power of making lawes be restrained (*de necessitate*) or of a godly & cōmendable policy, not to be altered without great perill, I leaue to the iudgement of wiser men. But I hold it incontrowlable, that the King of England is an absolute king. And all learned politicians doe range the power of making lawes, *inter insignia summe & absolute potestatis. Maiora autem regalia sunt hac: clausula plenitudinis potestatis, & ex ea*

aliquid statuere, leges cōdere, ac eas omnibus & singulis dare, bellū indicere, belli indicenci licentiā alii dare, pronunciare ita ut a sententia appellari non possit, cōmittere sive delegare alicui causā cum clausula appellatione remota, cognoscere de crimine lesę maiestatis, legitimare per rescriptū eos qui extra legitimū matrimoniū nati sunt, ad famā honores, & natales in integrum restituere, veniam atatis dare, creare Duces, Marchiones, Comites, regnū in feudū concedere. Huc referri potest ius e igendi scholā, que hodie Vniuersitas vel Academia appellatur, etiam ius creandi doctores, gradu licentia aliquē insigniendi, creādi magistratus tabelliones, sive notarios ius dādi insignia nobilitatis, sive nobiles creādi, ius cudēdę monete, nova vectigalia institutiendi, vel instituta vectigalia augēdi; Sixtinus ubi supra. So that those other which are mentioned in *libris feudorū*, & the interpreters of them, are (at the least for the most part) iustly called *regalia minora*, as *armādię, vię publicę, flumina nauigātia, portus, ripalia, vectigalia, moneta, militarū pœnarūq; cōpendia, bona vacātia, bona que indignis auferuntur, bona eorū qui incestū matrimoniū cōtrahunt, bona damnatorū, & postscriptorum, angarie & parangarie, extraordinarie*

ad expeditionē imperatores col-
lationes, potestas creandorū ma-
gistratū ad iusticiā, exequen-
dā, argētaria, palatia, in ciuita-
tibus cōstituta, piscationū redi-
tus, salinarū redditus, bona cōmi-
tēiū crimē lese maiestatis, the-
saurus inuētus. By setting
downe these regalities of both
sorts, as they are accōited in the
Empire, and other forein king-
doms, they may be the more ea-
sily cōpared with our kings pre-
rogatiues, and so the differences
noted betweene vs & them. And
whereas some things are before
reckoned both (*inter regalia ma-
iora, & minora*) the reader must
vnderstand that this may bee in
diuers respects. For example, the
power of raising a tribute, or of
coyning money is *inter maiora*:
but the profit that groweth to
the Prince by the one or other, is
(*inter minora*) Now may there
also bee noted out of books a
great number of prerogatiues
belonging to the king of this
land, which doe not bring profit
to his cofers immediately, and
therefore may be accounted
inter regalia maiora, or at the
least, in a middle or mixt na-
ture or *inter maiora & minora*,
because by a consequent they
tend to the increase of the kings
exchequer. Of these such as I
haue obserued in reading, I will
set downe as they come to my

hands, without farther curiosity
in diuiding. It is the kings pre-
rogatiue that he may not be siew-
ed vpon an ordinary writ asten-
nent to lands, but by petition.
Plowd. casu Walsinghā f. 553. to
haue a necessary consent in the
appropriation of all benefices. *I-
dem, casu Grendon. fol. 499.* to
waue and to demurre, and to
pleade to the issue, or to waue
the issue, and to demurre vpon
the plee of the aduers parts, yet
not to change the issue another
terme after hee and the aduers
part be once at issue. *Idem, casu
Willion. fol. 23. 6. a. & casu Mi-
nes fol. 322. a.* to be receiued in a
suit before issue ioyned vpon an
(ayde prier) *Idem, casu Dutchy of
Lancaster. fol. 221. b.* to be neuer
in nonage, *eodem. f. 218. b.* that a
man indicted may not wage
battell with him. *Idem casu nimes
fol. 335. b.* that no man vpon
any right may enter vpon him
being in possession, but must be
put to suite. *Dyer f. 139. nu. 33.*
to seise the lands of his tenents
that alienate without licence,
Plowd. casu. Mines. fol. 322. a.
that no subiect may wage his
law against him. *Broke. chose in
action. 9. Coke. lib 4. fol. 93.* to
present in the right of the yon-
gest coparcener being his warde
before the elder. *Plowd. casu.
Mines. fol. 332. b. & fol. 333. a.*
that a benefice by institution is

not full against him. *Coke. Dig-
bies case, fol. 79. a.* not to finde
pledges for the persecuting of a-
ny action. For he cannot be amer-
ced. *Fitzh. nat. br. fo. 31. F. & fo.
47. C.* To siew in what court hee
will. *Fitzh. nat. br. f. 7. B. & 32.
E.* to siew the writ *Ne admittas*
after sixe moneths. *Regist. orig.
fol. 31. a.* that a mans villein ha-
ving remained in his ancient de-
mesn by the space of a yeare, may
not bee recovered by the writ,
(*de natino habendo*) *Fitzh. nat.
br. fol. 79. A.* to grant an office
with the (*habendum post mor-
tem alterius*) *Dyer fo. 295. nu. 1.*
to shorten the ordinary time of
summons (being 15. dayes) in
writ of right. *Brit. ca. 121.* to
giue what honour or place he li-
theth to his subiects. *anno 31. H.
8. ca. 10.* to be owner of a forrest.
See *Forrest.* to haue free warren.
See *Warren.* Not to be owted of
his free hold. *Cromptons Iustice
of peace. fol. 59. b. & 16. a.* to
araigne a man being both a Trai-
tor and a Felon, rather vpon the
treason, than vpon the felonie,
because he may haue the whole
escheats. *Idem. eodem. fol. 99.
a.* to warrant the day of appea-
rance to his subiect being in his
service, and summoned to ap-
peare at a day certain. *Fitzh. nat.
br. fol. 17. a.* Divers of these, and
many others did belong (*fisco
imperatorum*) which you may
finde in the *Digest: De iure filii.*

& *Co. lib. 1 o. tit. 1.* Besides these
also many moe may be observed
to belong vnto our King out of
lawes, which I leaue to their col-
lection which are of longer rea-
ding, and more painfull industry.

*Prerogative of the Archbishop
of Canterbury, or Yorke* (*præro-
gativa Archiepiscopi Cantuari-
ensis, seu Eboracensis*) is an espe-
ciall preeminence that these Sees
haue in certaine cases aboute ordi-
nary Bishops within their Pro-
vinces. And that of the Arch-
bishop of *Canterburie*, princi-
pally consisteth of these points.

First, in the confirmation of
all elections made of Bishops by
the Deane and Chapter of all Ca-
thedrall Churches, as also the
consecration of them.

Next, in a power of visiting
his whole Province, of assem-
bling Synods, of supplying the
defects and negligences of in-
feriour Bishops, of receiuing
appeales from their Courtes,
of assigning coadiutors to those
Bishops that grow weake and
insufficient to discharge their
function, of appointing Vi-
cars generall to those that haue
either none, or an insufficient
man employed in that office:
and of dispensing in all Eccle-
siasticall cases, wherein the
lawes beare dispensation: of ta-
king oath of every Bishop, at
his confirmation, to performe

canonical obedience unto the See of *Canterburie*. But these seeme to belong unto him by an ordinarie archiepiscopall authority.

Certaine other things there be, that appertaine unto him more then ordinarily to other Archbishops: as the originall calling of any person in any cause belonging to spirituall iurisdiction, out of any part of his province, though not appealed. But this point is now limited by the Statute made, anno 23. Hen. 8. ca. 9.

The receiving of an appeale from the lowest Iudge Ecclesiasticall within his province immediatly. The appointing of a keeper or guardian of the spiritualties during the vacancie of any Bishoprick. By which meanes all Episcopall rites of the Dioces for that time doe belong unto him: as Visitation, Institution to Benefices, and such like.

The visitation of every Diocese within his province, when & in what order it pleaseth him. As also of all other privileged Churches. The probate of Testaments and granting of administrations, in case where the party deceased hath goods of any considerable valew out of the Diocese wherein he dyeth. And that valew is ordinarily five pounds, except it be otherwise by composition between the said Archbishop, and some other Bishop:

as in the Diocese of *London* it is ten pounds.

The probate of every Bishops Testament, or the administration of his goods dying intestate, though not having any goods, chatels, or debts without the compasse of his owne iurisdiction. The bestowing of any one dignitie or prebend in any Cathedrall Church vpon the creation of a new Bishop, that himselfe thinketh good to make choice of.

There may bee more particulars of this prerogative, that I know not: but these may be sufficient to expresse the thing that I desire to declare. Who so desireth to reade these more at large, and other privilegedges of this Church in temporal maters, may resort to the booke intituled: *De antiquitate Britannica ecclesie, & nominatim de privilegiis Ecclesie Cantuariensis historia*. and especially to the 8. chapter of the said booke. pa. 25.

Prerogative Court, (*curia prerogative Archiepiscopi Cantuariensis*) is the Court wherein all wils be proved, & all administrations taken, that belong to the Archbishop by his prerogative, which see in *Prerogative*. And if any contention doe grow betweene two or more touching any such will or administration, the cause is properly debated and deter-

determined in this Court. The Iudge of this court is called *Iudex Curie prerogative Cantuariensis*. The Archbishop of Yorke hath also the like power and court, which is termed his Exchequer, but farre inferior to this in countenance and profite.

Prescription (praescriptio) is a course or vse of any thing for a time beyond the memory of man, as the expositiō of the law termes doth define it. *Kitch. fol. 104.* saith thus: Prescription is, when for continuance of time, whereof there groweth no memory, a perticular person hath perticular right against another perticular person. And custome is, where by continuance of time beyond memory, diuers persons haue gotten a right: with whom agreeth *Sir Edm. Cooke, lib. 4. fol. 32. a.* And v-sage is by continuance of time the efficient cause of them both, and the life of both prescription and custome. Thus saith *Kitchin*. But as in the Ciuill law, so I think likewise in the cōmon, Prescription may be in a shorter time. As for example, where the Statute *anno. 1. H. 8. ca. 9.* saith, that all actions popular must be siewed within three yeares after the offence committed, and the Statute *anno. 7. eiusdem. cap. 3.* That foure yeares being past af-

ter the offence cōmitted in one case, and one yeare in another, no suite can be commenced, and the Statute *31. Eliz. cap. 5.* saith, (by way of correcting the two former statutes) that all actions, &c. brought vpon any Statute, the penalty whereof belongeth to the King, shall bee brought within two yeares after the offence committed, or else be voyd. And the statute *anno 39. Eliz. cap. prim. & secund.* saith that actions brought after two yeare by any common person, or after three yeares by the king alone for decay of husbandry or tillage, shall be of noe force. Whosoever offendeth against any such statute, and doth escape vncalled for two yeares, or three yeares, in one case of the two later of these three statutes, may iustly bee said to haue prescribed an immunity against that action. The like may be said of the statute made *anno 23. Eliz. cap. primo*, which saith, that all offences comprised in that statute made in the 13 yeare of *Eliz. cap. 2.* are inquireable before both Iustices of peace and of Assise, within one yeare and a day, after the offence committed. Also the title that a man obtaineth by the passing of five yeares after a fine acknowledged of any lands or tenements, may

iustly be said to be obtained by prescription. And whereas the Statute, *an. 8. R. 2. ca. 4.* saith, that a iudge or Clerke convicted for false entring of plees, &c. may be fined within two yeares; the two yeares being ended, he prescribeth against the punishment of the saide Statute; and whereas the Statute *anno 11. H. 7.* saith, that he which will complaine of mainetenance, or embracery, whereby periury is committed by a Iury, must doe it within sixe dayes, those sixe daies ended, the parties prescribe: and whereas the statute *an. prim. Ed. 6.* saith, that a man being not indicted within 3 monethes of any offences there mentioned touching Service and Sacraments, hee shall be cleare from thence forward: the three moneths being ended, hee prescribeth: and the same may bee said of the statute *anno 5. Ed. 6. cap. 5.* which saith that a man shall not bee indited of any offence there mentioned touching the decay of tillage, after 3. yeares. And whereas it is ordeined by the statute *anno 8. H. 6. cap. 9.* that those which keepe possession of lands by force after 3. yeares possession held by themselves and their ancestors, shall not be subiect to the arbitrement of Disseisors there set

down, I hold this a prescription likewise against those censures. *v. anno 23. H. 6. ca. 15.* Lastly a seruant prescribeth liberty after a yeare. *Bracton. li. 1. ca. 10. nu. 3.* and the right that is gotten in any Stray to a Lord of a maner, no man clayming it within the year and day after proclamation made, is an vsucapion, or prescription. See *Action perpetuall, and temporall.* And see *Crompt. Iustice of peace. f. 173. b. vbi habebis festu.* But see one rule for all in *Lam. Eirenarch. li. 4. c. 5. pa. 469.* Of this prescription, and the learning touching the same, you may read a sollemn report in *S. Ed. Cooks, & Luttrells case. vol. 4 fo. 84. b. & seqq.*

Presentation (Præsentatio) is vsed properly for the act of a patron offering his Clerk to the Bishop, to be instituted in a benefice of his gift: the forme whereof see in the *Register originall fol. 322. a.*

Presentment, is a meere denuntiation of the Iurours themselves, or some other officer, as Iustice, Constable, searcher, surueiours, &c. (without any information) of an offence inquireable in the court wherunto it is presented. See *Lam. Eirenarcha. lib. 4. ca. 5. pa. 467.*

President (Præses) is vsed in the common law for the kings Lieu-

Liuetenant in any Prouince or function: as President of *Wales*, of *Yorke*, of *Barwick*, President of the Kings Councell, anno 22. *H.8.ca.8.* & anno 24. *H.8.cap.3. & 14.*

Preignotary (*Protonotarius*) is a word that seemeth to be made either of 2 French words (*Prime*) or *Primier*. i. *primus*) & (*Notaire*. i. *Notarius*, *tabellio*, or of two Latine words (*præ*) & *notarius*) *quasi primus aut principalis notarius*. The office is likewise borrowed from the later Romanes, who made his name of halfe Greeke, and halfe Latin. viz. *πρωτος*. i. *primus*, *principalis*) and (*Notarius*) It is vled in our common law for the chiefe clerks of the Kings courts, whereof 3 bee of the common pleas, and one of the Kings bench. For the preignotary of the common plees, anno 5. *H.4.ca.14.* is termed the chiefe clerke of that court. He of the Kings Bench recordeth all actions civile siewed in that court, as the Clerke of the Crown office doth all criminall causes. Those of the common plees do enter and enrolle all manner of declarations, pleadings, Affizes, and Iudgements: and al actions, the same terme that the apparence is made. Also they make out all iudiciall writs, as the *venire facias* after issues ioyned, &

Habeas corpus for the bringing in of the Iury, after it is returned vpon the *venire facias*. They also make forth writs of executions, and of seisin, writs of *super sedes*, for appearance to exigents, as well as the exigents, and writs of priuiledges, for remouing of causes from other inferiour courts of Record, in case where the party hath cause of priuiledge: Also writs of *procedendo*, of *scire facias* in all cases, and writs to enquire of damages: and all proces vpon prohibitions, and vpon writs of *audita querela*, and false Iudgement. Finally they inrolle all recognisances acknowledged in that court, and all common recoveries: and may make exemptions of any Record the same terme, before the rolles be deliuered from them.

Prender, commeth of the French (*prendre*. i. *accipere*, *acceptare*, *capere*. *prehedere*) it signifieth in our comon law sometime a power, or right to take a thing before it be offered: as such things as lye in Prender, or such as lie in render. *West parte 2 titulo Fines. sect. 126.* where you haue these words: If the Lord grant the seruices of his tenent by fine, or otherwise, the lord before atturment, shal haue such things as lye in prender: as the ward of the body of the heire and

and of the land : escheats, &c. but not such things as lye in *prender*, as rents and reliefes, heriots and other seruices. For he cannot avow for them before the attournment.

Prender de Baron signifieth literally in barbarous French to take a husband : but it is vsed in our common law, as an exception to disable a woman from persiewing an appeale of murder against the killer of her former husband, *Stawns. pl. cor. li. 3. ca. 59*. The reason whereof whether it be, because by her second mariage, she may iustly be thought to haue giuen vp the interest she had in her former husband, or for that she is now couert again, or for both, I leaue to consideration.

Prender del profits signifieth *verbatim* to take the profits. It signifieth substantiuelly the taking of the profits. See *Cromptons Iuris. fol. 185*. See *Pernour of profits*.

Prest, is vsed for some duty in money to bee paide by the Shyreuee vpon his accompt in the exchequer, *anno 2. & 3. Ed. 6. cap. 4*.

Prest money, is so called of the French word (*Prest. i. explicatus. pröptus, expeditus*) for that it bindeth those, that haue received it, to be ready at all times

appoynted.

Primage, isa duty due to the mariners and saylers for the loading of any ship at the setting forth from any hauen, *anno 32. H. 8. cap. 14*.

Primier seisin (*Prima seifina*) *ad verbum* signifieth the first possession. It is vsed in the common law, for a branch of the kings prerogatiue, whereby he hath the first possession of all lands, and tenements through the Realme holding of him in chiefe, whereof his tenent dyed seised in his demesne as of fee; and so consequently the rents, and profits of them, vntill the heire, if he be of age, doe his homage, if hee bee vnder yeares, vntill he come to yeares. See *Stawns. prerog. ca. 3. & Bracton lib. 4. tract. 3. cap. pri.*

Primo beneficio. See *Beneficio*.

Prince (*Princeps*) is a french word, & taken with vs diuerly, sometime for the king himselte, but more properly for the kings eldest sonne, who is prince of *Wales*, as the eldest sonne to the French King is called *Dolphine*, both being princes by their natiuity. *M. Fearn in the glory of generosity. pa. 138*. For *Edward* the first to appease the tumultuous spirits of the Welch men, who being the ancient *Indige-*

ne of this land, could not in long time beare the yoke of vs, whom they call strangers, sent his wife being with childe into *Wales*. Where at *Carnaruan* she was delivered of a sonne, therevpon called *Edward of Carnarvan*, and afterward asked the Welchmen, seeing they thought much to be governed by strangers, if they would bee quietly ruled by one of their owne nation; who answering him, Yea: then (quoth hee) I will appoint you one of your owne countrey-men, that cannot speake one word of English, and against whose life you can take no iust exception: and so named vnto them his sonne borne in *Carnarvan*, not long before. From which time it hath continued, that the Kings eldest sonne, (who was before called, Lord Prince, *Stawns prerog. cap. 22. fol. 75.*) hath beene called, Prince of *Wales*. *Stowes Annals, pag. 303.* See anno 27. *H. 8. cap. 26.* & anno 28. *eiusdem, cap. 3.*

Principality of *Chester*. anno 21. *Rich. 2. cap. 9.* See County palatine, and *Cromptons divers iurisdictiones, fol. 137.*

Prior perpetual, or datife & remouable. anno 9. *R. 2. cap. 4.* and anno 1. *Ed. 4. cap. 1. paulo ante finem.* Lord prior of *Saint Iohns of Ierusalem*, anno 26. *H. 8. cap. 2.*

Priors aliens (*Priores alieni*)

were certaine religious men, borne in *Fraunce*, and gouernours of religious houses erected for out-landish men here in *England*: which were by *Henry* the fifth thought no good members for this land, after such conquest obtained by him in *France*, and therefore suppressed. Whose livings afterwarde by *Henry* the sixth, were giuen to other Monasteries, and houses of learning. *Stowes annals, pag. 582.* See anno 1. *H. 5. cap. 7.* but especially to the erecting of those two most famous Colledges, called the Kings Colledges of *Cambridge* and *Eton*.

Prioritie, (*prioritas*) signifieth in our common law, an antiquitie of tenure in comparison of another not so ancient. As to hold by priority, is to hold of a Lord more aunciently then of another. *old. nat. br. fol. 94.* So to hold in posterioritie, is vsed by *Stawns prerog. cap. 2. fol. 111.* And *Crompton* in his iurisdiction fol. 117. vseth this word in the same signification. The Lord of the prioritie shall haue the custodie of the body, &c. *fol. 120.* If the tenent hold by prioritie of one, and by posterioritie of another, &c. To which effect see also *Fitzh. nat. br. fol. 142.* *Bartholus* in his Tractate, *De insigniis & armis*, vseth these very words, *prioritas, & posterioritas,*

concer

Concerning two that beare one coate armour.

Prisage, seemeth to bee that custome or share, that belongeth to the King out of such merchandize, as are taken at sea, by way of lawfull prize, *anno 31 Eliz. cap. 5.*

Prisage of Wines, *anno 1. H. 8. cap. 5.* is a word almost out of vse, now called *Butlerage*, it is a custome whereby the Prince chalengeth out of every barke loaden with wine, containing lesse then forty tunne, two tunne of wine at his price.

Prise (*prisa*) commeth of the French (*prendre. i. capere*) it signifieth in our Statutes, the things taken by pourveyours, of the Kings subiects. As *anno 3. Edw. 1. cap. 7. & anno 28. eiusdem stat. 3. cap. 2.* It signifieth also a custome due to the King, *anno 25. eiusdem cap. 5. Regist. origin. fol. 117. b.*

Prisoner (*priso*) commeth of the French *prisonnier*, and signifieth a man restrained of his libertie upon any action civill or criminall, or vpon commandement. And a man may be prisoner vpon matter of Record, or matter of fact: prisoner upon matter of record is hee, which being present in court, is by the court committed to prison, only vpon an arrest, be it of the Shyreue, Constable, or other.

Stawnf. pl. cor. lib. prim. cap. 32. fol. 34. & 35.

Prinie, commeth of the French (*prine. i. familiaris*) and signifieth in our common law, him that is partaker, or hath an interest in any action, or thing: as, *prinie of blood*, *old nat. br. fol. 117.* bee those that be linked in consanguinitie. Euerie heire in tayle is priue to recover the land intayled. *eodem fol. 137.* No priuie was betweene mee and the tenent, *Littleton fol. 106.* If I deliver goods to a man to bee carried to such a place, and he after he hath brought them thither, doth steale them, it is felonie: because the priuie of deliverie is determined, as soone as they are brought thither. *Stawnf. pl. cor. lib. prim. cap. 15. fol. 25.* Merchants priuie be opposite to merchant strangers, *anno 2. Edw. tertii, cap. 9. & cap. 14. & anno eiusdem, stat. 2. cap. 3.* The new expositour of Law termes maketh diuers sorts of priues: as priues in estate, priues in deed, priues in law, priues in right, and priues in blood. And see the examples he giveth of everie of them. See *Perkins Conditions. 831. 832. 833.* and *Sir Edward Cooke, lib. 3. Walkers case, fo. 23 a. & lib. 4. fol. 123. b. & 124. a.* where hee maketh foure kindes of priuies, viz. priuies in blood, as the heire to his father, &c.

pruiues in representation, as executours or administratours to the deceased: priuies in estate, as he in the reuerfion, and he in the remainder, whē land is giuē to one for life, and to another in fee: the reason is giuen by the Expofitour of law termes, for that their estats are created both at one time. The fourth sort of priuies are priuies in tenure: as the Lord by escheate: that is, when the land escheatech to the Lord for want of heires, &c,

Priuie seale (*priuatum sigillū*) is a seale that the king vseth some time for a warrant, whereby things passed the priuie signet & brought to it, are sent farther to be confirmed by the great seale of England: sometime for the strength or credit of other things written vpon occasions more transitory and of lesse continuance, then those be that passe the great seale.

Priuiledge (*pruilegiū*) is defined by Cicero in his oration *pro domo sua*, to be *lex priuata homini irrogata*. *Freretus in partitulis ad titulū decretalium de priuilegiis* thus defineth it: *priuilegiū est ius singulare, hoc est priuata lex qua vni homini, vel loco, vel Collegio, & similibus aliis conceditur: cap. priuilegia, distinct. 3. priua enim veteres dixerē que nos singula dicimus. Infit Agellius li. 10. c. 20. Ideo q̃*

priuilegia, modo beneficia modo personales cōstitutiones dicūtur &c. It is used so likewise in our cōmon law, & somtimes for the place, that hath any speciall immunity. *Kitchin fol. 118.* in the words: where debtors make fained gifts and feofments of their lād, & goods to their friends, & others, and betake themselues to priuiledges, &c. Priuiledge is either personal, or real: a personall priuiledge is that, which is granted to any person, either against, or beside the course of the cōmō law: as for example, a person called to be one of the Parliament, may not be arested, either himselfe, or any of his attendāce, during the time of the Parliament. A priuiledge reall is that, which is granted to a place, as to the Vniuersities, that none of either may be called to *West. hal.* vpon any contract made within their own precincts. And one toward the court of Chancery cannot originally be called to any court but to the Chancery, certain eales excepted. If he be, he will remoue it by writ of Priuiledge grounded vpon the statute ann. 18. Ed. 3. See the new booke of *Entries. verbo Priuilege.*

Probat of testaments (*probatio testamento n̄*) is the producing, and insinuating of dead mens wills before the ecclesiasticall Iudge, Ordinary of the place,

F ff 1 where

where the party dyeth, And the ordinary in this case is knowne by the quantity of the goods, that the party deceased hath out of the *Dioces*, where he departed. For if all his goods be in the same *Dioces*, then the Bishop of the *Dioces*, or the Archdeacon (according as their composition, or prescription is) hath the probate of the Testament: if the goods be dispersed in diuers *Dioces*, so that there be any summe of note (as five pounds ordinarily) out of the *Dioces* where the party let his life: the is the Archbishop of *Canterbury* the ordinary in this case by his prerogative. For whereas in old time, the wil was to be proued in euery *Dioces*, wherein the party deceased had any goods: it was thought conuenient both to the subiect, and to the Archiepiscopall See, to make one prooffe for al before him, who was and is of all the generall ordinary of his prouince. But there may be anciently some composition betweene the Archbishop and an inferiour ordinary, whereby the summe that maketh the prerogative, is aboue 5. pound. See *prerogative of the Archbishop*. This probate is made in two sorts either in common forme or *per testes*. The prooffe in common forme, is onely by the oath of the executor, or party exhibi-

ting the will, who sweareth vpon his credulity, that the wil by him exhibited, is the last will, & testament of the party deceased. The prooffe *per testes*, whē ouer and beside his oath, he also produceth witnesses or maketh other prooffe, to confirme the same, and that in the presence of such as may pretend any interest in the goods of the deceased, or at the least in their absence, after they haue beene lawfully summoned to see such a wil proued, if they thinke good. And the later course is taken most commonly, where there is feare of strife, and contention betweene the kindred or friends of the party deceased about his goods. For a will proued onely in common form, may be called into question any time within 30. yeares after by common opinion, before it worke prescription.

Procedendo, is a writ whereby a plee, or cause formerly called from a base court to the Chancery, Kings bench, or common pleges, by a writ of priuiledge or certiorare, is released, and sent downe againe to the same court, to bee proceeded in there, after it appeareth that the defendant hath no case of priuiledge, or that the matter comprised in the bill, be not well proued *Brooke hoc titulo*, & Terms of

of law: *Cook vol. 6. fol. 63. a.* See anno 21: R. 2. ca. 11. in fine, letters of *procedendo* granted by the keeper of the privie seale. See in what diversitie it is vsed in the table of the originall Register, and also of the Iudiciall.

Proces (*processus*) is the maner of proceeding in euery caule, be it personall, or reall, civill, or criminall, even from the originall writ to the end. *Britton. fol. 138. a.* wherein there is great diversitie, as you may see in the table of *Fitz. nat. br. verbo Proces*, and *Brooks Abridgement, hoc titulo*. And whereas the writings of our common lawyers sometime call that the proces, by which a man is called into the Court, and no more: the reason thereof may be given, because it is the beginning, or the principall part therof, by which the rest of the businesse is directed, according to that saying of *Aristotle, ἡ ἀρχὴ ἡμεῶν τῆς πρὸς τὸν κριτὴν*.

Divers kindes of proces vpon Inditements before Iustices of peace: See in *Cromptons Iustice of peace, fol. 133. b. 134. 135.* But for orders sake, I referre you rather to *M. Lambard* in his tractat of processe adioyned to his *Eirenarcha*, who according to his subiect in hand, divideth criminall proces, either into proces touching causes of treason, or felonie, and proces touching in-

ferior offences: the former is usually a *capias, capias aliàs, & exigi facias*. The second is either vpon inditement, or presentment, or information: that vpon inditement or presentment, is all one, and is either generall, & that is a *venire facias*, vpon which if the partie be returned sufficient, then is sent out a *Distingas infinate* untill he come: if he be returned with a *Nihil haber*, then issueth out a *Capias, Capias aliàs, Capias pluries*, and lastly, an *Exigi facias*. The speciall proces is that, which is especially appointed for the offence by statute. For the which hee referreth his reader to the 8. chapter of his 4. booke being very different.

Processum continuando, is a writ for the continuance of a proces after the death of the chiefe Iustice, in the writ of *oyer and terminer. Register original. fol. 128. a.*

Prochein Amy (*proximus amicus, vel propinquior*) is word for word, a neere friend. It is used in our common law, for him that is next of kinde to a childe in his nonage, and is in that respect allowed by law, to deale for him in the managing of his affaires: as to be his *Gardian*, if he hold of any in socage, and in the redresse of any wrong done vnto him, be it by his *Gardian*, if he be ward, and hold in Chival-

ries, or any others. *Stat. West. pri. cap. 48. 3. Ed. pri. and Westm. 2. cap. 15. anno 13. Ed. pri.*

Profe, aliás Prove, is vsed for an Enquest. anno 28. *Ed. 3. cap. 13.*

Proclamation (Proclamatio) signifieth a notice publicly giuen of any thing, whereof the King thinketh good to aduertise his subiects. So it is vsed anno 7. *Rich. 2. ca. 6.* Proclamation of rebellion is a publicke notice giuen by the officer, that a man not appearing vpon a *Sub poena*, nor an attachement in the Starre Chamber or Chancery, shall be reputed a rebell, except he render himselfe by a day assigned. *Cromptons Iurisd. fo. 92.* See *Commission of rebellion.*

Proclamation of a fine, is a notice openly and solemnly giuen at all the Assizes, that shall bee holden in the Countie within one year after the ingrossing of the fine, and not at the foure generall quarter sessions. And these proclamations bee made vpon transcrips of the fine, sent by the Iustices of the commonplees, to the Iustices of Assise, and the Iustices of peace. *West. parte 2. symbo. titulo Fines. sect. 132.* where also you may see the forme of the proclamatiō. *Proclamare est palā, & valde clamare.* vsed by *Tullie, Linie*, and the *Civilian. π. Quibus ad li-*

berta proclamare non licet. And *Proclamator* signifieth him *qui litē intēdit, vel causā agit.* *Cicero de oratore. lib. pri.* *Nō enim causidicū nescio quem, neq; proclamatorē, aut rebulam hoc sermone conquirimus, &c.* I read in *Fitz. nat. br. fol. 85. G.* that the King's proclamation is sufficient to stay a subiect from going out of the Realme. See the force of proclamations *an. 31. H. 8. ca. 8.* see also proclamations in diuers cases. New booke of *Entries. verbo Proclamation.*

Proctors of the clergy (procuratores cleri) are those which are chosen and appoynted to appeare for cathedrall, or other Collegiate churches, as also for the common clergy of euery Dioces, at the Parliament, whose choise is in this sort. First, the king directeth his writ to the Archbishop of each prouince for the summoning of all Bishops, Deanes, Archdeacons, cathedrall and collegiat churches, and generally of all the clergy of his prouince, after their best discretion and iudgement, assigning them the time and place in the said writ. Then the Archbishops proceed in their accustomed course. One example may serue to shew both. The Archbishop of *Canterbury* vpo his writ receited, directeth his letters to the Bishop of *London* as

his Dean provincial. *1. scilicet statumimus de pœnis & verbis aqua in glos.* first citing himselfe peremptorily: & then willing him to cite in like maner all the Bishops, Deanes, Archdeacons, cathedrall and collegiate churchus, and generally all the Clergy of his Prouince to the place and against the day prefixed in the writ. But directeth withal that one Proctor sent for euery Cathedrall or Collegiate Church, and two for the bodie of the inferiour Clergy of each Diocesse, may suffice. And by vertue of these letters authentically sealed, the said Bishop of London directeth his like letters severally to the Bishop of euery Diocesse of the Prouince, citing them in like sort, and commaunding them not onely to appeare, but also to admonish the said Deans, and Archdeacons personally to appeare, and the Cathedrall and collegiat Churches, as also the common Clergie of the Diocesse to send their Proctors to the place, and at the day appoynted: and also willeth them to certifie the Archbishop the names of all and euery so monished by them, in a shedule annexed to their letters certificatory. The Bishops proceed accordingly, and the Cathedrall and collegiate churches as

also the Clergie make choise of their Proctors: which done, and certified to the Bishop, hee returneth all answerably to his charge at the day. These proctors of the Clergie, howsoever the case of late dayes is altered, had place and suffrage in the lower house of parliament, as well as the knights, citizens, Barons of the Cinque ports, and Burgesses. For so it plainly appeareth by the statute *anno 21. R. 2. cap. 2. & cap. 12.* And sithence they were remooued, the Church hath daily grown weaker and weaker: I pray God that in short time she famish not, but that her liberties bee better maintained.

Procurator, is vsed for him that gathereth the fruites of a benefice for another man. *anno 3. R. 2. stat. 1. cap. 2.* And *procuracy* is vsed for the specialty, whereby he is authorized. *Ibid.* They are at this day in the West parts called *Proctors*.

Profer (*proferum vel proferu*) is the time appoynted for the accompts of Shyreuees, and other officers in the Exchequer, which is twice in the yeare, *anno 51. H. 3. statute quint.* And it may bee gathered also out of the *Regist. fol. 139.* in the writ *De Attur-nato Vicecomitis pro profero faciendo.* I reade also of *profers*, *anno 32. H. 8. cap. 21.* in these words:

Trinity terme shall beginne the Monday next after Trinity Sunday, whensoever it shall happen to fall, for the keeping of the essoines, profers, returnes, and other ceremonies heretofore vsed and kept. In which place (*profor*) seemeth to signifie the offer, or indeauour to proceed in action by any man, whom it concerneth so to doe. See *Briton. cap. 28. fol. 50. b. & 55. a. & fol. 80. b. and Fleta li. 1. ca. 38. sect. Vitalagati & seqq.*

Profer the halfe merke. See Halfe merke.

Profession (professio) is in the common law, vsed particularly for the entring into any religious Order of Friars, &c. New booke of Entries, *verbo Profession.*

Profits apprender. See Prender.

Prohibitio (prohibitio) is a writ framed for the forbidding of any court, either spirituall or secular, to proceede in any cause there depending, vpon suggestion, that the cognition thereof belongeth not to the said court. *Fitz. nat. br. fo. 39. G.* but is most vsually taken, especially in these dayes, for that writ which lyeth for one that is impleaded in the Court Christian, for a cause belonging to the temporall iurisdiction, or the cognisance of the Kings court, whereby as well the partie and his Councell,

as the Iudge himselfe, and the Register, or forbidden to proceed any farther in that cause: for that it appertaineth to the disinheritaige to the Crowne of such right as belongeth vnto it. In how many cases this lyeth, see *Broke hoc titulo, & Fitz. nat. br. fol. 39. & seqq.* This writ, and the *pramunire*, might in these dayes well bee spared: for they were helpees to the kings inheritance and Crowne, when the two swordes were in two diuers hands. Whereas now both the Iurisdiccions being fetled in the King, there is small reason of either, except it be to weary the subiect by many quircks and delaies, from obtaining his right: of this prohibition, you may read *Bracton also lib. 5. tract. 5. cap. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.* who saith, that it lyeth not after sentēce giuen in any cause, howsoever the case is altered: and againe, the statute made, *ann. 50. Ed. 3.* which ordaineth, that about one prohibition should not lye in one cause. See the diuersity of prohibitions in the table of the *original Regist.* See the new booke of Entries, *verbo, Prohibition,* and *Fitz. nat. br. fol. 39.*

Prohibitio de vasto directa parti, is a writ Iudiciall directed to the tenent, and prohibiting him from making waste vpon the land

land in controverſie, during the ſuite. *Register iudiciall, fol. 21.* It is ſometime made to the Shyreue, the example whereof you haue there next following.

Pro indiſiſo, is a poſſeſſion, and occupation of lands, or tenements belonging vnto two or more perſons, whereof none knoweth his ſeuerall portion, as Coparceners before partition. *Braſton lib. 5. tracta. 2. cap. pri. nu. 7.*

Prolocutour of the convocation houſe (*prolocutor domus convocationis*) is an officer choſen by perſons Eccleſiaſtical publiquely aſſembled by the Kings writ at every parliament. And as there be two houſes of convocation, ſo bee there two prolocutors, one of the higher houſe, the other of the lower houſe, who preſently vpon the firſt aſſembly, is by the motion of the Biſhops, choſen by the lower houſe, and preſented to the Biſhops for their prolocutour, that is, the man by whom they meane to deliver their reſolutions to the higher houſe, and to haue their owne houſe eſpecially ordered and governed. His office is to cauſe the Clerke to call the names of ſuch as are of that houſe, when he ſees cauſe, to cauſe all things propounded to be read by him, to gather the Suffrages, and ſuch like.

Promoters (*promotores*) bee thoſe which in popular and penal actions doe deferre the names, or complaine of offenders, having part of the profit for their reward. Theſe were called among the Romanes *Quadruplatores*, or *Delatores*. They belong eſpecially to the Exchequer and the Kings bench. *Smith de Repub. Anglo li. 2. cap. 14.*

Pro patribus liberandis, is a writ for the partition of lands between coheires. *Register original fol. 316.*

Prophecies (*prophetia*) bee in our common law, taken for wiſedly foretellings of matters to come, in certain hidden and enigmaticall ſpeeches. Whereby it fallethout many times, that great troubles are ſtirred in our common wealth, and great attempts made by thoſe, to whom the ſpeech framed, either by the deſcription of his cogniſance, armes, or ſome other qualitie, promiſeth good ſucceſſe, *anno 3. Ed. 5. cap. 15. & anno 7. eiusdem cap. 11. & anno 5. Eliza. ca. 15.* But theſe for diſtinction ſake are called falſe, or phantaſticall prophecies.

Property (*proprietas*) ſignifieth the higheſt right that a man hath or can haue to any thing, which is no way depending vpon any other mans courteſie. And this none in our kingdome can bee ſaid

said to haue in any lands, or tenements, but onely the King in the right of his Crowne. Because all the lands through the realm, are in the nature of fee, and doe hold either mediately or immediately of the Crowne. See *Fee*. This word neuerthelesse is in our common law vsed for that right in lands and tenements, that common persons haue, because it importeth as much as (*utile dominium*) though not (*directum*.)

Proprietate probāda, is a writ. See the *originall Regist. fol. 83. a. & 85. b.* It lyeth for him, that will proue a property before the Shyreue. *Brooks Propertie. 1.* For where a property is alleged, a replegiare lyeth not. *Idem ibidem.*

Proprietarie (propriarius) is he that hath a property in any thing, but is most notoriously vsed for him, that hath the fruits of a benefice, to himselfe and his heires or successors, as in time past Abbots and Priors had to them and their successors. See *Appropriation.*

Prorata portionis. See *Onerando pro rata portionis.*

Protection (protectio) hath a generall and speciall signification. In the generall it is vsed for that benefite and safety, that euery subiect or Denizen, or aliē specially secured, hath by the

Kings lawes. And thus it is vsed, *anno 25. Edw. tertii. capite 22.* Protection in the speciall signification is vsed for an exemption, or an immunity given by the King to a person against suites in law, or other vexations vpon reasonable causes him thereunto mouing, which I take to be a branch of his prerogatiue. And of this protection, *Fitzh. maketh two sorts in his nat. br. fol. 28.* The first forme or sort he calleth a protection, *cum clausula volumus*, whereof he mentioneth foure particulars. A protection, *quia profecturus*, for him that is to passe ouer sea in the kings seruice: A protection *quia moratur*, for him that is abroad in the Kings seruice vpon the sea, or in the marches, *anno 7. H. 7. cap. 2.* A protection for the Kings debter, that he be not siewed or attached untill the King be payed his debt. See *ann. 15. Edw. 3.* This some Ciuilians call *moratorium*: which see *In singularibus Maranta, verb. Princeps. p. 79. col. 2.* And a protection in the kings seruice beyond the seas, or on the marches of Scotland: whereof you may reade something, *anno 1. R. 2. cap. 8.* See the *Regist. orig. fol. 23.* and *Britton. ca. 123.* The second forme of protection is termed *cū clausula, Nolumus*: which is graunted most commonly

monly to a spirituall company for their immanity from taking of their catell by the Kings ministers. But it may be graunted also to one man spirituall or temporall. Of these things read the same author : and the forms of these writs. See also in the *Register originall fol. 22 & 23.* And see the new exposition of law terme, to what action the Kings protection doth not extend. See also the new booke of Entries, *verbo protection.*

Protonotarie, (protonotarius)
See *Preignetary.*

Protestation (protestatio) is (as *Iustice Walsh* defineth it) a defence of safeguard to the partie, which maketh it from being concluded by the act he is about to doe, that issue cannot be ioyned vpon it. *Plowden. fol. 276. b.* whereof see the *Register origin. fol. 306. b.* And see *Protest.*

Protest, (protestari) hath two diuers applications, one is by way of cautell, to call witness (as it were) or openly to affirm, that he doth either not at all, or but after a fort yeeld his consent to any act, as vnto a proceeding of a Iudge in a court, wherein his iurisdiction is doubtfull, or to answer vpon his oath farther then hee by lawe is bounde. See *Plowd. casu Gresbroke. fol. 276. b.* and the *Register orig.*

fol. 306. b. Another is by way of complaint to protest a mans bill : For example, if I giue money to merchant in *Fraunce*, taking his bill of exchange to be repayed in *England*, by one to whom hee assigneth me, if at my coming I finde not my selfe satisfied to my contentment, but either delayed or denyed : then I goe into the burle or some open concurse of Merchants, and protest that I am decceiued by him. And thereupon if he haue any goods remaying in any mans hands within the Realme, the lawe of Merchants is, that I be payd out of them.

Prouner (Probator) See *Approuner, anno 5. H. 4. ca. 2.* See *Approuours.*

Prouince (Prouincia) was vsed among the Romans for a Country without the compasse of *Italie*, gained to their subiection by the sword, wherevpon the part of *Fraunce* next the *Alpes* was so called of them, when it was in their dominion, and of that carrieth the same name at this present. But with vs a prouince is most vsually taken for the circuit of an Archebishops iurisdiction, as the Prouince of *Canterbury*, and the prouince of *Yorke, anno 32. H. 8. ca. 23. & anno 33. eiusdem,*

dem, cap. 31. yet it is vsed diuers times in our statutes for severall parts of the Realme.

Provincial (*provincialis*) is a chiefe governour of an order of Friers, *anno quar. Henr. quar. cap. 17.*

Proforestarius, was he whom the auncient Kings of this Realme made chiefe of Windsor Forest, to heare all causes of death, or mayhem, or of slaughter, or of the Kings Deere within the Forest. *Camd. Brit. pag. 213.* See *Iustice of the Forest.*

Prove. See *Profe.*

Prouision (*Prouiso*) is vsed with vs, as it is vsed in the Canon law, for the providing of a Bishop, or any other person of an Ecclesiasticall living, by the Pope, before the Incumbent be dead. It is also called *gratia expectantia*, or *Mandatum de providendo*. The great abuse whereof in the Pope through all Christendome heretofore, you may read, not onely in *Quarimus de sacris ecclesie ministeriis, & beneficiis*, l. 3. c. 2. but also for England particularly, in diuers statutes of the Realme, viz. *anno 25. Ed. 3. ca. 22. stat. 4. & statu. 5.* commonly called the statute *de prouisoribus.* & *an. 27. eiusdē, ca. 1. & anno 38. eiusdē stat. 2. cap. 1. & 2. 3. 4. & anno 38. eiusdē, & anno 2. Rich. 2. cap. 7.*

& *anno 3. eiusdē cap. 3. & anno 7. eiusdē, cap. 12. & anno 12. eiusdē, cap. 15. & anno 13. eiusdē stat. 2. cap. 2. & 3. & anno 16. eiusdē cap. 5. & anno 2. H. 4. cap. 3. & 4. & anno 5. eiusdē, cap. pri. & anno 7. eiusdē, cap. 6. & 8. & anno 9. eiusdē, cap. 8. & anno 3. H. 5. cap. 4.* See *Premunire.*

Prouisor (*Prouisor*) is he that sheweth to the court of Rome for a prouision, *old. nat. br. fol. 143.* See *Prouision.*

Prouiso, is a condition inserted into any deed, vpon the obseruance whereof the validity of the deed consisteth, which forme of condition seemeth to be borrowed from *Fraunce*, for (*Pouruein Gallicum semper conditionem inducit. Tiracquel, tome 3. p. 216.* Our common lawyers say, that it sometime signifieth but a covenant, whereof you haue a large dispute in the 2. Booke of Sir Ed. Cokes Reports in the Lord Cromels case. It hath also another signification in matters Iudiciall: as if the plaintife or demandant desist in prosecuting an action, by bringing it to a triall, the defendant, or tenant may take but the *venire facias* to the Shyreede: which hath in it these words, *Proviso quod, &c.* to this end, that if the plaintife

tise take out any writ to that purpose the shyreue shall summon but one Iury vpon them both. See *old natura breuium* in the writ *Nisi prius fol. 159.*

Purchas, See *Pourchas*.

Purfles of a womans gowne.
anno 33. H. 8. cap. 5.

Purgation (*Purgatio*) is a cleering of a mans selfe from a crime, whereof he is probably and publicquely suspected, and thereof denounced to a Iudge. Of this there was great vse in England touching maters of felony imputed to Clerks in former time, as appeareth by *Stawns pl. cor. lib. 2. ca. 48.* See *Clergy*. It is still obserued for mater pertaining to the ecclesiasticall court, as suspicion, or common fame of of incontinency, or such like. *Purgatio* is either canonicall (*canonica*) or vulgar (*vulgaris*) Canonicall is that which is prescribed by the Canon law: the forme whereof is vsually in the spirituall court, the man suspected taking his oath that hee is cleare, of the fault objected, and bringing so many of his honest neighbours, being not aboue twelue, as the court shal assigne him, to sweare vpon their consciences and credulity that he sweareth truly, or hath taken a true oath. Vulgar purgation was by fire, or water, or by combat, vsed by Infidels,

and Christians also, vntill by the Canon law it was abolished. *tit. 15. de purgatione Cā. & vnt. ga. in Decretalibus.* Combat though it bee lesse in vse then it was, yet is it, and may be still practised by the lawes of the Realme, in cases doubtfull, if the defendant chuse rather the Combat then other tryall. See *Ordel*, See *Combat*.

Purlue, is all that ground neere any Forest, which being made Forest by *Henry* the second, *Richard* the first, or *King Iohn*, where by perambulations granted by *Henry* the third, seuered againe from the same. *Manwood. parte 2. of his Forest lames. ca. 20.* And he calleth this ground either *Paurallee*. i. *perambulationem*, or *purlieu*, & *purluy*, which he saith be but abusiuely takē for *paurallee. vbi supra. nu. 3.* But with the licence of that industrious and learned gentleman, I am bold to say, that this word may be no lesse fitly made of two French words (*pur. i. purus*) & (*lien. i. locus*) and my reason is, because that such grounds as were by those kings subiected to the lawes, and ordinances of the Forest, are now cleered and freed from the same: for as the Ciuilians call that *purum locum, qui sepulchrorū religioni nō est obstrictus* *sec. 9. de rerum diu. in institut.*

So, no doubt, in imitation of that very point. our auncestors called this *purlieu*, *id est purum locum*, because it was exempted from that seruitude or thralldom, that was formerly laid vpon it. So (*ager purus est, qui neq; sacer, neq; actus, neq; religiosus, sed ab omnibus huiusmodi nominibus vacare videtur.* l. 2. sect. 4. *de religio. & sūptibus funerū*) And therefore M. Crompt. *Purraile* is not much amisse *fo. 153. of his Iurisd.* because we may also deriue it from the French words (*pur*) and (*Allee*) that is as much to say, as a cleere, or a free walke or passage. And where it is sometime called *Pourallee*, that may and doth come from (*pur*) and (*Alce*) i. *Itio, profectio, ambulatio*) because he that walketh or courseth within that compasse, is cleere enough from the lawes or penalties incurred by them, which hunt within the precincts of the Forest. See the *stat. anno 33. Ed. pri. stat. 5.*

Pourlie mā, is he that hath ground within the *Purlieu*, and being able to dispend 40. shillings by the yeare of free hould, is vpon these two poynts licensed to hunt in his owne *purlieu*. *Manwood. parte pri. of his Forest lawes. pag. 151. & 177.* but what obseruations he must vse in his hunting, see him *pag. 180. 181. 186.* See him likewise *par-*

te 2. cap. 20. nu. 5. 8. 9. &c. See *Purlieu*.

Purpresture. See *Pourpresture* *Pursey, anno 43. Elizab. cap. 10.*

Pursuivant. See *Poursuivant*.

Purveyours. See *Pourveyours*.

Pyker, aliās Pyear, a kinde of ship. *anno 31. Edw. 3. Stat. 2. cap. 2.*

Q

Quadragesima, is the first sonday in lent, so called (as I take it) because it is the fourth day before Easter. The sonday before that is *Quinquagesima*, the second before, *Sexagesima*, the 3. *septuagesima*.

Que plura, is a writ that lieth where an Inquisition hath beene made by the Escheatour in any county, of such lands or tenements, as any man died seised of, and all that was in his possession be not thought to be found by the office. The forme whereof see in the *Register original*, *fol. 293.* and in *Fitzh. nat. br. fol. 255.* It differeth from the writ called *melius inquiredo*, as *Fitz.* there saith, because this is granted, where the Escheatour formerly proceeded by vertue of his office: and the other, where he found the first office by vertue

tue of the writ called, *Diem clausit exereum*. See the newe booke of Entries. verbo. *Qua plura*.

Quarens non inuenit plegium. is a recurre made by the Shyreue vpon a writ directed vnto him with this condition inserted. *Si Afecerit B. securum de loquela sua prosequenda*, &c. Fitz. nat. br. fol. 38. O.

Qua seruitia, is a writ. See *Per qua seruitia*.

Quale ius. is a writ Iudiciall, that lyeth where a man of religion hath iudgement to recouer land, before execution bee made of the iudgement, for this writ must betweene Iudgement and execution, goe forth to the Escheator, to inquire whether the religious parson hath right to recouer, or the Iudgement is obtained by collusion betweene the demaundant and the Tenent, to the intent the true Lord be not defrauded. See *Westm. 2. cam. 32. Cum viri religiosi*, &c. the forme of this writ you may haue in the Register Iudiciall, fol. 8. 16. 17. & 46. and in the old nat. br. fol. 161. See the new booke of Entries. verbo *Quale ius*.

Quare eiecit infra terminum, is a writ that lyeth for a lessee, in case where he is cast out of his ferme before his terme be expired, against the feoffee of the

leassour, that eiecteth him. And it differeth from the *Eiectione Firma*, because this lyeth: where the leassour after the lease made, infeoffeth another, which eiecteth the lessee. And the *Eiectione firma* lyeth against any other Straunger that eiecteth him. The effect of both is all one: and that is to recouer the residue of the terme. See *Fitzh. nat. br. fol. 197*. See the Register originall, fol. 227. and the new booke of Entries. verbo. *Quare eiecit infra terminum*.

Quare impedit, is a writ that lyeth for him, who hath purchased a maner with an Advowson thereunto belonging, against him that disturbeth him in the right of his advowson, by presenting a Clerk thereunto, when the Church is voide. And it differeth from the writ called (*Affisa ultima presentationis*) because that lyeth, where a man or his Aunceltors formerly presented, and this for him, that is the purchasour himselfe. See the Exposition of the termes of law, and old nat. br. fol. 27. *Bracton. lib. 4. tracta. 2. cap. 6. Bruton. ca. 92. and Fitzh. nat. br. fol. 32.* and the Register originall fol. 30. where it is said that a *Quare impedit* is of a higher nature then *Affisa ultima presentationis*; because it supposeth both a possession and a right. See at large

the new book of *Entries. verbo Quare impedit.*

Quare incumbravit, is a writ, that lyeth against the Bishoppe, which within sixe moneths after the vacation of a benefice, conferreth it vpon his Clerke, whilest two others be contending in law for the right of presenting. Exposition of the terms of law, *old nat. br. fol. 30.* and *Fitz. nat. br. fol. 48. Regist. orig. fol. 32.*

Quare intrusit matrimonio non satisfacto, is a writ that lieth for the Lord against his tenant being his ward, that after couenable marriage offered him, marieth another, and entreth neuertheless vpon his land, without agreement first made with his Lord and Gardian. *Terms of the law.*

Quare non permitit, is a writ that lyeth for one that hath right to present for a turne against the proprietary *Flet. lib. 5. cap. 16.*

Quarentine (quarentina) is a benefit allowed by the law of England, to the widow of a landed man deceased, whereby she may challenge to continue in his capitall messuage, or chiefe mansion house, by the space of 40. dayes after his decease. Of this see *Bratton lib. 2. cap. 40.* And if the heire, or any other attempt to eiect her, she may haue the writ *De Quarentina*

habenda. Fitz. nat. br. fol. 161. see anno 9. H 3. cap. 7. & anno 20. cap. pri. and *Briton. cap. 103. M. Skene de verborū significatione. verbo Quarentina viduarū*, deriueth this word from the French *Quaresme*. Who also haue this custome called *lo quaresme des vesues* granted to widowes after the decease of their husbands: as he proueth out of Papon in his *Arests libro 15. titulo des dots. cap. 7. & lib. 10. tit. Substitutio- nes cap. 30.* Of this read *Fleta al. so lib. 5. cap. 23.*

Quarentena habenda, is a writ, that lyeth for a widow to enioy her *Quarentine*. Register original. fol. 175.

Quare non admisit, is a writ, that lyeth against the Bishop refusing to admit his Clerke, that hath recovered in a plee of *Ad-uowfen*. The further vse whereof see in *Fitzh. nat. br. fol. 47. & Register original. fol. 32.* See the new book of *Entries. verbo quare non admisit.*

Quare obstruxit, is a writ, that lieth for him who hauing a seruitude to passe through his neighbours ground, cannot inioy his right, for that the owner hath so strengthened it. *Fleta. lib. 4. cap. 26. sect. Item si minus.*

Quarter Sessions, is a court held by the Iustices of peace in euery County, once euery quarter. The iurisdiction where-
of

of how farre it exceedeth, is to be learned out of *M. Lamberts Eirenarcha. Sir Thomas Smith, de Republ. Anglo. lib. 2. ca. 19.* But to these you must adde the late statutes of the Realme, for their power daily increaseth. Originally it seemeth to haue been erected onely for matters touching the peace. But in these daies it extendeth much farder. That these sessions should bee held quarterly, was first of all ordained (so farre as I can learne) by the statute *anno 25. Ed. 3. stat. pri. ca. 8.* of these read *Lambards Eirenarcha* the 4. book throughout, where he setteth them out, both learnedly and at large.

Quashe (*quassare*) commeth of the French (*quasser. i. quassare, conquassare*) it signifieth in our common law, to overthrow, *Bracton lib. 5. tracta. 2. cap. 3. nu. 4.*

Quebord, anno 17. Ed. 4. c. 2. *Que est mesme*, signifieth *verbatim. Which is the selfe same thing.* It is vsed in our common law as a word of art in an action of trespass, or of like nature, for a direct iustification of the very act complained of by the plaintife as a wrong. For example, in an action of the case, the plaintiffe saith that the Lord threatned his Tenants at wil in such sort, as he draue them to giue vp their te-

mures. The Lord for his defence pleadeth, that he said vnto them, that if they would not depart, he would fiew them as the law would. This being the same threatning that he vied, or, to speak artificially *que est le mesme* the defence is good. Of this see *Kitchin* in the chapter. *Que est le mesme. f. 236.* where you may haue many like examples.

Que estate, word for word signifieth, *Quem statum.* It signifieth in our common law, a plee whereby a man intitling another to lands, &c. saith, that the same estate that he had, him selfe hath from him: for example, in a *Quare impedit* the plaintife alleadgeth, that such foure persons were seised of lands, whereunto the Advowson in question was appendant in fee, and did present to the Church, and afterward the Church was voide, *Que estat del, &c.* that is which estate of the foure persons, hee saith also, that hee hath now during the vacation, by vertue whereof he presently, &c. *Brook titulo Que estate. fol. 175. & 176.* But it is harder to know when this *Que estate* is to be pleaded, then to vnderstand what it is, as by him may appeare. See the new book of Entries, verbo *Que estate.*

Queene (*Regina*) is either she that holdeth the Crowne of this Realme

Realme by right of blood, or els she that is married to the King. In the former signification shee is in all construction the same that the King is, and hath the same power in all respects. In the other signification shee is inferior, and a person exempt from the King. For she may siew and be siewed in her owne name. Yet that she hath, is the Kings and looke what she looseth, so much departeth from the King. *Stawnf. prerog. cap. 2. fol. 10. in fine.* See *Kitchin fol. 1. b.* See *Cooke li. 4. Copy-holds cases. f. 23. b.* *Augusta* was the like among Romaines, how be it not *eiusdem iuris* in all things.

Queens siluer. See *Kings siluer*
Quem redditū reddat, is a writ Iudiciall, that lyeth for him to whom a rent seck, or rent charge is graunted by fine leuied in the Kings Court, against the Tenent of the land, that refuseth to attorne vnto him, thereby to cause him to attorne. See *old nat. br. fol. 156.* and *West parte 2. Symbol. titulo Fines. sect. 125.* See the new book of Entries. *Verb Quam redditum reddit.*

Querela frisco fortia is a writ. See *Fresh force.*

Querela coram Regi & cōsilio discutienda, & terminanda, is a writ, whereby one is called to iustifie a complaint of a trespassse made to the king and himselfe

before the King & his counsell. *Register originall. fol. 124. b.*

Questus est nobis, &c. is the forme of a writ of Nufance, which by the statute *an. 13. Ed. pri. cap. 24* lieth against him, to whom the house or other thing that breedeth the Nufance, is alienated, whereas before that statute, this action lay onely against him, that first leuied the thing to the hurt of his neighbour. See the *Statute.*

Quia improvide, seemeth to be a superseedeas granted in the behalfe of a clerke of the Chawncerie siewed against the priuiledge of that court, in the common plees, & persiewed to the exigēd. See *Dyer. f. 33. n. 18*

Quid iuris clamat, is a writ Iudiciall issuing out of the Record of the Fine, which remaineth with the *Custos breuium* of the common place, before it be ingrossed (for afterward it cannot be had) and it lyeth for the Grauntee of a reuerſion, or Remainder, when the particular tenant will not attorne. *West. parte. 2. Symb. titulo Fines. sect. 118.* whom see farther. See the Register iudiciall, *fol. 36. 57.* And the new booke of Entries. *verbis Quid iuris clamat.*

Quinquagesima Sunday, is alway the next Sabbath before Shrouetide, so called, because it is the fueteth day before Easter.

Easter. The reason of this appellation who so desireth to know, he may finde divers such as they be, in *Durandi Rationali diuinorum*, capit. *De Quinquagesima Sexagesima Sunday*, is the next sabbath before *Quinquagesima*, so called in the opinion of the said author, because the number of sixty consisteth of sixe times tenne: sixe hauing reference to the sixe workes of mercy, and ten to the tenne commandements. *Septuagesima* is the next before *Sexagesima* and is instituted and so called, as *Durand* likewise saith, for three things: and (to vse his owne words) *Primò, propter redemptionem Sabbathi, vel secundum alio, quinta feria, in qua facti Patres statuerunt ieiunari. Secundo propter representationē, quoniam representat septuaginta annos captiuitatis Babilonice. Tertiò propter significationē, quoniam per hoc tempus significatur denatio, exiliū, & tribulatio totius homini generis ab Adā vsq; ad finē mundi: quod quidem exilium sub reuolutione septem dierum peragitur, & sub septem millibus annorum includitur.* But of these three dayes, you may reade him at large, that haue a mind to learne of him. I onely take occasion to note, what time of the yeare they be, because I finde them spoken of in our an-

cient law writers, as *Briston ca. 23.* and such like.

Quite claime (*quiete clamantia, vel quieta clamantia*) is a releafe or acquiting of a man for any action, that he hath, or might haue against him. *Bracton lib. 5. tract. 5. cap. 9. num. 9. & lib. 4. tractat. 6. cap. 13. num. prim.*

Quittance (*quietantia*) see *Acquittance*.

Quid pro quo, is an artificial speech in the common law, signifying so much as the Greeke *ὀνδραγμα*, among the Ciuilians, which is a mutuall pretestation or performance of both parties to a contract: as a horse and ten pound betweene the buyer and the seller. *Kitchin fol. 184.*

Quinzieme (*Decima quinta*) is a French word, signifying a fifteenth. It is vsed in our common law, for a taxe laid vpon the subiects, by the Prince, *an. 7. H. 7. cap. 5.* so termed, because it is rated after the fifteenth part of mens lands or goods. See *Fifteenth* and *Taxe*. The *Fifteenth* (as *Crompt.* saith in his *Iurisdic. fol. 21.*) is leuied more commonly in these dayes by the yards of land: and yet in some places by goods also: and note also, that he there saith, that it is well knowne by the Exchequer rolle, what euery

town through England is to pay for a Fifteenth. Sometime this word *Quinsieme* is vled for the fifteenth day after any feast, as *Quinsime* of S. Iohn Baptist anno 13. Edw. prim. cap. 3 & anno decimo octauo. eiusd. capit. prim.

Quod ei deforciat, is a writ that lieth for the tenent in tayle, tenent in dower, or tenent for terme of life, hauing lost by default, against him that recovered, or against his heire. *Exposition of termes*. See *Broke hoc tit*. See the *Regist. origin. fol. 171*. and the new booke of Entries. verbo *Quod ei deforciat*.

Quod permittat is a writ, that lyeth for him that is disseised of his commune of pasture, against the heire of the disseisour being deade. *Termes of law. Briston ca 8*. saith that this writ lyeth for him, whose auncestour died seised of commune of pasture, or other like thing annexed to his inheritance, against the *Deforceour*. See *Broke hoc titulo*. See the *Register orig. fol. 155*. and the new booke of Entries. verbo, *Quod permittat*.

Quoc Clerici non eligantur in officio Balliui, &c. i., a writ, that lyeth for a Clerke, which by reason of some land he hath, is made, or in doubt to be made either Bayliffe, Bedell, or Reeue,

or some such like officer. See *Clerico infra sacros, &c.* See the *Register orig. fol. 187*. *Fitz. nat. br. fol. 175*.

Quod Clerici beneficisati de Cancellaria, &c. is a writ to exempt a Clerke of the Chauncery from contribution toward the Proctors of the Clergy in Parliament. *Register originall. fol. 261. a.*

Quod persona, nec Prabendarij, &c. is a writ, that lyeth for spirituall persons that are deltrayned in their spirituall possessions for the payment of the Fifteenth with the rest of the parish. *Fitz. nat. br. fol. 176*.

Quod non permittat. See *Consuetudinibus, & seruicys*.

Quo iure, is a writ, that lyeth for him that hath land, wherein another chalengeth commune of pasture time out of minde. And it is to compell him to shew by what title hee chalengeth this commune of pasture. *Fitz. nat. br. fol. 128*. Of this see *Briston* more at large cap. 59 see the *Regist. origin. fol. 156* and the new booke of Entries. verbo *Quo iure*.

Quo minus, is a writ, that lyeth for him, which hath a graunt of housebote, and heybote, in another mans woods, against the graunter making such waste, as the grauntee cannot

cannot enioy his graunt. *old.no. br.fol.148.* Termes of law : see *Brooke, hoc titulo.* See *Kitchin fol.178.b.* This writ alio lyeth for the Kings fermer in the Exchequer, against him to whom hee selleth any thing by way of bargaine touching his ferme. *Perkins Graunts.5.* For he suppoeth, that by the breach of the vendee he is disabeled to pay the king his rent.

Quo warranto, is a writ that lyeth against him, which vsurpeth any *Francheis* or liberty against the King, as to haue wayfe, stray, faire, market, court Baron, or such like, without good title. *old.nat. br.fol.149.* or else against him that intrudeth himselfe as heire into land. *Bracton, lib.4. tractat. 1. cap.2. numb. 3.* See *Brook hoc titulo.* You may reade of this alio *anno 18. Edw. prim. Stat.2. & 3. & anno 30. eiusdem.* And the new booke of Entries. *Quo warranto.*

R

R *Acke vintage*, *anno 32.H. 8.c.14.* is a second vintage or voyage for wines by our Merchants into *Fraunce, &c.* For rackt wines, that is, wines clenfed and so purged that it may be and is drawne from the leese. From this voyage our Merchants commonly returne a-

bout the end of December, or beginning of Ianuary,

Radknights. See *Rodeknights.*

Ran, is a Saxon word, signifying so open a spoiling of a man that it cannot be denyed. *Lamb. Archan fo.125.* defineth it thus: *Randicitur aperta rapina, qua negari non potest.*

Ransome, (*redēptio*) commeth of the French (*rancon*) or (*rencon*) i. *redemptio*) It signifieth properly with vs, the summe paid for the redeeming of a Captiue : and sometime a great sum of money to be paid for the pardoning of some hainous crime. *anno pri. H. 4. cap.7.* Note that when one is to make a fine, and Ransome, the Ransome shall be treble to the Fine. *Cromptons Iustice of peace. fol.142. a.* and *Lamb. Eirenarch. lib.4. cap.16. pa.556.* Horne in his mirrour of Iustices, maketh this difference betweene amerciament, and ransome, because ransome is the redemption of a corporall punishment, due by law to any offence. *lib.3. cap. de amerciament taxable.*

Rape (*rapus vel rapa*) is a part of a county, signifying as much as a Hundred. As *Southsex* is diuided into sixe parts, which by a peculiar name are called rapes, viz. the Rape of *Chichester*, of *Arundell*, of *Brēber*, of *Lewis*, of *Peuensey*, of *Hastings*. *Camden*

Britan. pag. 225. whom also see *pag. 229.* These parts are in other places called Tithings, Lathes, or Wapentakes. *Smith de Repub. Anglo. lib. 2. cu. 16.*

Rape (*raptus*) is a felony committed by a man in the violent deflowing of a woman, be she old or young. *Britton. cap. 1.* whereof *West. parte. 2. Simb. titulo Inditements, sect. 54.* hath these words: *Copulation violent,* is termed a rape or raviishment of the body of a woman against her will: which is carnall knowledge had of a woman who neuer consented thereunto before the fact, nor after. (And this in Scotland ought to bee complained of the same day or night that the crime is committed. *Sken. de verborū significat. verbo Raptus.* his reaso. *quia lapsu diei hoc crimen prescribitur*) This offence is with vs Felony in the principal, & his ayders. *anno 11. H. 4. cap. 13. anno pri. Ed. 4. cap. pri. West. 2. cap. 13.* (But *Fleta* saith that the complaint must be made within forty dayes, or else the woman may not bee heard. *lib. 3. cap. 5. sect. Preterea.* And carnall knowledge of a woman vnder tenne yeares old is felony. *anno 8. Elizab. cap. 6.* Thus saith *M. West.* of the diuersity of Rapes, see *Cromptons Iustice of peace. fo. 43. b. & 44.* See *Raviishment.* The Ciuill law vseth (*rap-*

tus) in the same significatio. And (*rapere virginē vel mulierē, est ei vim inferre & violere. Co. li. de raptu virginis.*

Raptu heredis, is a writ lying for the taking away of an heire holding in Soccage, and of this there be two sorts, one when the heire is married, the other when he is not; of both these see the *Register original. fo. 163. b.*

Rastall, was a Lawyer of reuerend account, that liued in Queene *Maries* dayes, and was a Iustice of the cōmon ples. Hee gathered the statutes of the land into an Abridgement, which carrieth his name at this day. He is also the author of the new book of *Entries.*

Ratification (*ratificatio*) is vsed for the confirmation of a Clerk, in a prebend, &c. formerly giuen him by the Bishop, &c. where the right of patronage is doubted to be in the King. Of this see the *Register original. fo. 304.*

Rationabili parte bonorū, is a writ that lyeth for the wife against the Executors of her husband, denying her the third part of her husbands goods after debts and funerall charges defrayed. *Fitzh. nat. br. fol. 222.* Who there citeth the 8. chap. of *magna charta*, and *Glauuile*, to proue, that according to the common law of England, the goods

goods of the deceased, this debts first paid, should be divided into three parts, whereof his wife to haue one, His children the second, and the Executors the third. *Fitzherbert* saith also, that this writ lyeth as well for the children, as for the wife. And the same appeareth by the *Register originall fol. 142. b.* I haue heard some learned men say, that it hath no vse, but where the custome of the country serueth for it. See the new book of *Entries. verbo: Rationabilis parte: et Rationabili parte bonorum.*

Rationabilibus diuisis, is a writ, which lyeth in case, where two Lords in diuers townes haue their seigneuries ioyning together, for him, that findeth his waste by little and little, to haue bene encroched vpon within memory of man, against the other that hath encroched, thereby to rectifie the bounds of their seigneuries. In which respect *Fitzherb.* calleth it, in his owne nature, a writ of right. The *old natura breuium* saith also, that this is a Iustices, and may be removed by a *pone* out of the countie to the common banke: See farther the forme and vse of this writ in *Fitz. nat. br. fo. 128.* and in the *Register. f. l. 157. b.* & the new booke of *Entries. verbo Rationabilibus diuisis.* The ciuilians call this *Iudiciū finis regun-*

dorum.

Rauishment, raptus commeth of the French (*raissement. i. direptio, ereptio, raptio, raptus, raptura*) and signifieth in our law, an vnlawfull taking away either of a woman, or of an heire in ward. Sometime it is vsed also in one signification with rape, viz. the violent deflowring of a woman, See *Rape*. And thereupon is the writ called *Rauishment de gard*, otherwise called *de harede abduelo* lying for the Lord, whose tenent by reason of his tenure in Knights seruice being his ward, is taken and conueied from him. See *Fitz. nat. br.* in the writ *De recto de custodia. fol. 140. F.* See also the *old nat. br. fol. 92. 93. & 94.* See the new book of *Entries. verbo. Rape, & Rauishment de gard.*

Rawe, anno 4. Ed. 4. ca. 1.

Rawnge, commeth of the French (*Ranger. i. astituere, ordinere* or else the substantiue (*Rang. i. ordo, series*) It is vsed in our common law, both as a verbe (as to *Rawnge*) and also as a substantiue (as to make *Rawnge*) *charta de foresta. ca. 6.* The word is appropriated to the Forest, signifying the office of the *Rawnger*. The *Rawnger* is a sworne officer of the Forest (of which sort there seeme to be twelue) *charta de foresta. ca. 7.* whose authority is partly declared in his oath, set downe

by *M. Manwood parte pri. of his Forest lawes. pag. 50.* in these words : You shal truely execute the office of a Rawnger in the Purlieu of *B.* vpon the borders of the Kings Forest of *W.* you shall rechafe, and with your hound drive backe againe the wild beasts of the Forest, as often as they shall raunge out of the same Forest into your Purlieu. You shal truely present all vnlawfull hunting, and hunters of wilde beasts and venery, as well withie the purlieu, as within the Forest. And these and all other offences you shall present at the Kings next court of Attachments, or Swainmote, which shall first happen, to helpe you God, But the same authour setteth downe his office more particularly in his second part c. 20. n. 15. 16. & 17. The summe wherof is this. A Raunger is an officer of the Forest, or to the Forest, but not within the Forest, hauing no charge of vert, but onely of venison that commeth out of the forest into his charge, or part of the pourallee, to safe conduct them backe againe. And therefore in those forests that haue no pourallees, there be no Rawngers, but Foresters serue the turne. This Raunger is made and appoynted by the King his letters patents vnder the great seale, and for

his better incouragement in his duty, he hath a yeerely fee of 20 pound or 30 pound paid out of the Exchequer, and certain fee Deere both red and falow. His office consisteth chiefly in these these 3 poynts *ad perambulandū quotidie per terras de afforestatis, ad videndū, audiendū & inquirendū, tam de malefactoribus, quā de malefactoribus in Balliuā sua: ad refugandū feras Foresta tam veneris quā chasa de terris de afforestatis, in terras afforestatis: & ad presentandū omnes transgressiones Foresta in terris de afforestatis factas, ad proximas curias illius Foresta tentas.*

Ransom. See *Ransom.*

Ray, seemeth to be a word attributed to cloth neuer coloured or dyed. *v. anno 11. H. 4. cap. 6.*

Realtie. See *Royalty.*

Reasonable ayde (*Rationabile auxiliū*) is a duty that the Lord of the fee claymeth of his tenants holding by Knights seruice or in soccage to mary his daughter, or to make his sonne Knight. *West. 1. cap. 39.* See *Ayde.* See *Brooke titulo Reasonable aide.*

Reattachment (*Reattachamentum*) is a second attachment of him, that was formerly attached, and dismissed the court without day, as by the not coming of the Iustices, or some such like casualtie. *Brook tit. Reattachment;* where he maketh a

Reta-

Reattachment generall and a Reattachment speciall. Reattachment general seemeth to be, where a man is reattached for his appearance vpon all writs of Assise lying against him. *Brooke codem. nu. 14.* Then speciall must be for one, or more certaine, Register Iudiciall, *fol. 35.* See the new booke of *Entries. verbo Reattachment.*

Rebellion (Rebellio) is a French word signifying the taking vp of armes against the King or present estate. This French cometh from the Latine (*Rebellio*) which signifieth a second resistance of such as being formerly ouercome in battaile by the Romans yeelded themselves to their subiection. The French men and we vse it generally for the traitorous taking vp of armes against the estate, be it by naturall subiects, or by others formerly subdued. Reade more of this, *lib. 3. feudorum cap. 61.* and *Hotoman* vpon the same chapter. See the writ of *Rebellion.* *Rebell* is sometime attributed to him that wilfully breaketh a law *anno 25. Ed. 3. ca. 6. & anno 31. eiusdem, stat. 3. c. 2.* sometime to a villein disobeying his Lord. *a. 1. R. 2. c. 6.*

Rebellious Assembly, is a gathering together of 12. persons or more, intending or going about, practising, or putting in vre

vnlawfully of their owne authority to change any lawes, or statutes of this Realme, or to destroy the inclosure of any park, or ground inclosed, or bankes of any fisheponds, pale, or conduit, to the intent the same shall remaine voyde, or to the intent vnlawfully to haue common, or way in any of the said grounds, or to destroy the Deere in any parke, or any warrē of conies, or douehouses, or fish in any ponde, or any house, barnes, mils, or bayes, or to burne stacks of corne, or to abate rents, or prices of victuals, *an. pri. Mar. 12. & an. 1. Eliz. cap. 17.* See *West. parte 2. symb. titulo Indisements. Sect. 65.* And *Crompt. Iustice of peace. f. 41. b.*

Rebutter, cometh of the French (*Bouter. i. pellere, impellere, propellere, intrudere*) & signifieth in our common law the same thing. For example, a man giueth land to him and the issue of his body, to another in fee with warranty. And the *Donnee* leaseth out his land to a third for yeeres. The heire of the Donour impleadeth the tenant, alleadging that the land was intaile to him. The *Donee* cometh in, and by vertue of the warranty made by the Donour, repelleth the heire, because though the land were intailed to him: yet he is heire to the warantee likewise;

wife; and this is called a Rebut-
tur. See *Brooke titulo Barreinu.*
13. And againe if I graunt
to my tenent to hold *sine impe-*
ditione vasti, & afterward I im-
plede him for waste made, hee
may debarre me of this action,
by shewing my graunt, and
this is likewise a Rebutter. *I-*
dem eodem nu. 25. See the new
book of Entries, verbo Rebutter.

Renant, anno 32. H. 8. ca. 2.

Recaption (*Recaptio*) signifieth
a second distresse of one for-
merly distrained for the selfe
same cause, and also during the
plee grounded vpon the for-
mer distresse. It likewise signi-
fieth a writ lying for the party
thus destreyned, the forme, and
farder vse whereof you may see
in *Fitzh. nat. br. fol. 71.* and the
Register orig. fol. 86. and the *Re-*
gister Iudiciall, fol. 69. and the
new book of Ent. verbo *Recap-*
tion.

Receyver (*Receptor*, or *Recep-*
tator) generally and indefinitely
vsed, is as with the Ciuilians, so
also with vs, vsed commonly in
the euill part for such as receiue
stolne goods from theeues, and
conceale them. *l. 1. de recepta-*
toribus, but annexed to other
words, as the receiuer of rents,
&c. it signifieth many times an
officer of great accoumpte, be-
longing to the king or other
grea. personage. *Crompton Juris.*

dic. fol. 18. There is also an
officer called the *Receiuer* of
Fynes, who receiueth the money
of all such, as compound
with the King in the office of
the finances for the buying of
any lands, or tenements houl-
den in *Capite West. parte 2. sym-*
bol titulo Fines, sect. 106. Recei-
uer of all offices accountable.
anno. 1. Ed. 4. ca. 1.

Receiuer general of the Dutchy
of Lancaster, is an office belon-
ging to the Dutchy Court, that
gathereth in all the reuenues
and fines of the lands of the said
Dutchy, and of all forfeitures
and assessments, or what else is
thence to be receiued.

Receiuer generall of the court
of Wards & lineries, is an officer
belonging to that court, that is
to receiue all rents, reuenues and
fines of the lands belonging to
his maiesties wards, as also the
fines for licences to the Kings
widowes to marry, of *ouster le*
main sued out, and for ideots
and lunatickes land, and finally
all other profits whatsoever in
money arising to his maiesty out
of or by reason of the court of
wards and lyueries.

Receiuer generall of the muster
rolles, anno 35. El. ca. 4.

Receiuer generall of the Dutchy
of Lancast. of the wards & line-
ries, anno 39. Eliz. ca. 7.

Receyt. See *Resceit.*

Refuse,

Recluse (*Reclusus*) is he, that by reason of his order in religion, may not stirre out of his house or cloyster. *Littleton fol. 92.*

Recognisance (*Recognitio*) cometh of the French (*Recognisance*. i. *agnitio, recognitio*) and in our common law is thus defined. A *Recognisance* is a bond of record, testifying the recognizour to owe vnto the recognizee a certaine summe of money, and is knowledged in some court of Record, or before some Iudge, or other officer of such court, hauing authority to take the same: as the Masters of the Chancery, the Iudges of either Bench, Barons of the Exchequer, Iustices of peace, &c. And thote that be meere *Recognisances* are not sealed, but inrolled. And execution by force thereof is of all the recognisours goods, and chatels, except his draught beasts, and implements of husbandry, and of the moiety of his lands, *West. parte prim. symb. lib. 2. titulo Recognisances sect. 149.* And of these you may see their great diuersity of prebidents.

Note farther, that a *Recognizance*, though in the speciall signification, it doe but acknowledge a certaine debt, and is executed upon all the

goods, and halfe the lands of the recognisour: yethy extention it is drawne also to the Bonds, commonly called *Statute Merchant*, and *Statute of the Staple*: as appeareth by the *Register original fol. 146. 151. & 252.* and by *West. ubi supra*, and others. See *Statute Merchant*, and *Statute Staple*.

Recognisance hath yet another signification, as appeareth by these words in the statute, *West. 1. c. 36. anno 3. Ed. 1.* It is prouided also, and agreed, that if any man be attainted of disseisin done in the time of our King that now is, with robbery of any manner of goods, or moueables, by recognisance of Assise of *nouel disseisin*, the iudgment shall, &c. In which place it is vsed for the verdict of the twelue men empaneled vpon an Assise, which twelue are also called recognitours of the Assise, *Littleton fol. 72.* So also *Bracton* calleth them *lib. 5. tractat. 2. cap. 9. num. 2.* in these words: *In essonio verò reddendo exigentur omnes illi, quos causa tetigerit: sicut particeps, Warrantus, & alij vt supra.* *Recognitores in Assis, Iuratores in Iuratis, Inquisitores inquisitionibus, &c.* And againe, *lib. 3. tract. 1. cap. 11 num. 16.* See the Statute anno 20 *Ed. prim. stat. 4.* See the new book of Entries, *ver. recognisance*

Recognitione adnullanda per vim & duitiē facta, is a writ to the Iustices of the common Bench, for the sending of a record, touching a recognisance, which the Recognisour suggesteth to bee acknowledged by force and hard dealing, that if it so appeare, it may be disannulled. *Register original. fol. 183. a. b.*

Recognitores (recognitores) is a word vsed for the Iury empaneled vpon an assise. The reason why they be so called, may be, because they acknowledge a disseisin by their verdict. See *Bracton lib. 5. tract. 2. cap. 9. num. 2. & lib. 3. tract. prim. cap. 11. num. 16*

Record, (*recordum*) commeth of the Latine (*recordari*.) The word is both French and English, and in both tongues signifieth an authentick or vncontrollable testimonie in writing *Britton cap. 27. and Lamb. Eirenarch. lib. 1. cap. 13.* In the Grand Customary of *Normandy*, there are seuerall chapters of diuers records, expresseing whose presence in each of the Courts is sufficient to make that which is enacted to be a record, viz. the 102. chapter, where you have words to this effect. The record of the Kings Court, is a record of things done before the King. All things done before the King,

so hee haue one other witnesse. This record may he and other make: if hee himselfe will not make it, it may be made by three others. And his person may not bee impeached (or excepted against) either in this or any other thing. The next chapter. viz. the 103. sheweth how many persons suffice to make a record in the Exchequer. The next how many in an assise, &c.

I finde not that wee in our Courts (especially the Kings Courts) stand much vpon the numbers of Recorders or witnesses for the strength of the testimony which the record worketh: but that we take it sufficient which is registred in each Court. *Glanville lib. 8. cap. 8. Bracton lib. 3. tract. 2. cap. 37. num. 4. Britton* in the Proeme of his booke sayth, that the Iustices of the Kings Bench haue a record, the Coroner, Vicount, Iustices of the Exchequer, Iustices of Goale deliuary, the Steward of England, Iustices of Ireland, Iustices of Chester, Iustices assigned by the Kings letters patents, in those causes they haue commission to take knowledge of. All which (as I take it) must be vnderstood with that caueat of *Brooke, titulu Record num. 20. & 22.* that an act committed to writing in any of the Kings Courts.

Courts, during the terme where-
in it is written, is alterable, and
no record: but that terme once
ended: and the said act duely en-
rolled, it is a record, and of that
credit, that admitteth no altera-
tion, or prooffe to the contrarie.
Yet see *Sir Edw. Cooks Reports*
lib. 4. Rawlins case. fol. 52. b. an.
12. Ed. 2. cap. 4. It is said, that
two Iustices of either Bench haue
power to record Non suites, and
Defaults in the countrey. It ap-
peareth by *Bracton, lib. 5. tract.*
2. c. 1. & 11. that quatuor milites
habent recordum, being sent to
view a party essoined *de malo*
lecti, & *lib. 5. tract. 1. cap. 4. nu.*
2. that Seruient Hundredū habet
recordum in testimonio proborū
hominum. And in the Statute of
Carleil, made anno 15. *Ed. 2.* it is
said, that one Iustice of either
Bench, with an Abbot, or a Prior,
or a Knight, or a man of good
fame and credence, hath a re-
cord in the view of one that is
said by reason of sicknesse, to be
vnable to appeare personally for
the passing of a fine. And anno
13. *H. 4. cap. 7. & anno 2. H. 5.*
cap. 3. that two Iustices of peace,
with the Shyreue, or Vnder-
shyreue haue power to record,
what they finde done by any in
a ryot, or route, &c.

That which is before mention-
ed out of *Britton* touching the
Shyreue, seemeth to be limited

by *Fitzh. nat. br. fol. 81. D.* Who
alloweth him a Record in such
matters onely, as he is comman-
ded to execute by the Kings
writ, in respect of his office. And
thence it commeth that *Kitchin*
fol. 177. saith, that the Eschea-
tour, and Shyreue be not Iusti-
ces of record, but officers of re-
cord. In which words he signifi-
eth, that their testimony is au-
thenticall only in some certaine
things that are expressly inioyned
them by vertue of their Com-
mission, as ministers to the King
in his higher Courts, whereas
Iustices of record haue in genera-
lity a record for all things within
their cognisance done before
them as Iudges, though not ex-
pressly or particularly commaun-
ded. *Fitzh.* in his *Nat. br. fo. 82.*
in principio, something expla-
neth this point, writing to this
effect: Euery act that the Shy-
reue doth by vertue of his com-
mission, ought to be taken as
mater of record, no lesse than the
Iustices of peace. His reasons be
two: the former, because his pa-
tentis of record: the other, be-
cause he is a conseruatour of the
peace. And then he addeth, that
the ples held before him in
his County be not of record. Yet
is the county called a Court of
record. *Westm. 2. ca. 3. anno 13.*
Ed. 1. But it seemeth by *Britton*
cap. 27. that it is onely in these

causes, whereof the Shyreue holdeth plee by especiall writ; and not those that hee holdeth of course or custome. And in that case also it may be gathered out of the same authour, that he hath a record, but with the testimony of those annexed, that be suiters to the Court. Which seemeth to agree with *Bractōs* words above specified. *Serviens Hūdredi habet recordū in testimonio proborū hominū.* And to this purpose read *Glanvile. l. 8. c. 8. 9. & 10.* One Iustice upon view of forcible detinew of land, may record the same by statute. *anno 15. R. 2. cap. 2.* the Maior, and Constables of the Staple have power to record Recognisances of debt taken before them. *anno 10. H. 6. ca. 1.*

Brooke, titulo (Record) seemeth to say, that no court Ecclesiasticall is of record: how truly, it is to be inquired. For Bishops certifying bastardy, bigamy, excommunication, the vacancy or plenarty of a Church, a marriage, a divorce, a spirituall intrusion, or whether a man be professed in any religion, with other such like, are credited without farther enquiry or controlmēt. See *Brooke, titulo Bastardy.* See *Fleta, lib. 6. ca. 39. 40. 41. 42.* *Lamb. circ-narcha, lib. pri. cap. 13.* *Glanvile, li. 7. ca. 14. & 15.* the Register originall. *fol. 5. b. Bracton, lib. 5.*

tracta. 5. ca. 20. num. 5. Britton ca. 92. 94. 106. 107. & 109. Doct. and Stud. li. 2. ca. 5. but especially *Cosius apology, parte pri. ca. 2.* And a testament shewed vnder the seale of the Ordinary is not trauerfable. *36. H. 6. 31. Perkins Testament, 491. Fulb. paral. fol. 61. b.* But it may be that this opinion groweth frō a difference betweene that law, whereby the court Christian is most ordered, and the common law of this land. For by the civill or canon law no instrument, or Record is held so firme, but that it may be checked by witnesses able to depose it to be true. *Co. plus valere quod agitur quam quod simulate concipiunt. ca. cum Iohannes. 10. extra: de fide instrumentorum.* Whereas in our common law against a record of the Kings Court, after the terme wherein it is made, no witness can preuaile. *Britton ca. 109. Coke lib. 4. Hinde's case fol. 71. lib. assisarum fol. 227. nota. 21.* This reconciliation may be iustified by *Brooke* himselfe, *titulo, Testaments. num. 4. 8. & 14.* and by *Glanvile, lib. 8. cap. 8.*

The King may make a court of record by his grant. *Glanvil. li. 8. ca. 8. Britton cap. 121.* as for example, *Queene Elizabeth* of worthy memory by her Charter dated. *26. Aprilis, anno 3. regni sui* made the Consistory Court of the

the Vniuersity of Cambridge a Court of Record.

There are reckoned among our common lawyers three sorts of records: *viz.* A record iudiciall, as attainer, &c. A record ministeriall vpon oath, as an office found. A record made by conueyance by consent, as a fine, deed enrolled, or such like. *Coke. li. 4. Andrew Ognels case. fo. 54. b.*

Recordare facias, or *recordari facias*, is a writ directed to the Shyreue, to remoue a cause depending in an inferiour court, to the Kings bench, or common ples, as out of a court of auncient Demesne, Hundred, or County, *Fitz. nat. br. fol. 71. B.* out of the county Court. *idē, fo. 46. B.* or other courts of record. *idem fol. 71. C. & 119. K.* Howbeit if you will learne more exactly, where, and in what cases this writ lyeth, read *Broke* in his *Abridgm. titulo, Recordare & pone.* It seemeth to be called a *recordare*, because the forme is such, that it commaundeth the Shyreue to whom it is directed, to make a record of the proceeding by himsele, and others, and then to send up the cause. See the *Register, verbo, Recordare*, in the Table of the originall Writs. See *Certiorari.* See *Accedas ad Curiam.*

Recorder (recordator) cometh

of the French (*recordeur. i. talis persona qua in Ducis curia à iudicio faciendo non debet amoueri.*) *Grand Custumary of Norm. cap. 107. & 121.* Whereby it appeareth, that those which were necessary Iudges in the Duke of Normandies Courts, were called *Recorders*: and who they were, is shewed in the ninth chapter of the said booke. And that they, or the greater part of them, had power to make a record, it is euident in the chapter 107. Here in *England* a Recorder is he, whom the Maior or other Magistrate of any City, or Towne corporate, hauing Iurisdiction, or a Court of record within their precincts by the Kings grant, doth associate vnto him for his better direction in matters of Iustice and proceedings, according vnto law. And he is for the most part a man well seene in the common law.

Recordo & processu mittendis, is a writ to call a Record, together with the whole proceeding in the cause out of one court into the Kings Court. Which see in the Table of the *Register orig.* how diuersly it is vsed.

Recordo vtlagaria mittendo, is a writ Iudiciall, which see in the *Register indicial. fol. 32.*

Reconerie (Recuperatio) comes of the French *Reconuerer. i. Recuperare.* It signifieth in our comon

law, an obtaining of any thing by Iudgment, or tryall of law. as *evictio* doth among the Civilians. But you must vnderstand, that there is a true recovery and a feigned. A true Recovery is an actuell, or reall recovery of any thing, or the value thereof by Iudgment: as if a man slewed for any land, or other thing moueable or immoueable, and haue a verdict, and Iudgement for him. A feigned recovery is (as the Civilians call it) *quadam fictio iuris*, a certaine forme, or course set downe by law, to be obserued for the better assuring of lands or tenements vnto vs. And for the better vnderstanding of this, reade *West. parte 2. symbol. titulo Recoveries. sect. pri.* who saith, that the end, and effect of a Recovery, is to discontinue and destroy estates Tayles, Remaindres, and Reversions, and to barre the former owners thereof. And in this formality there be required 3. parties, *viz.* the Demaundant, the Tenent, and the Vowchee. The Demaundant is hee that bringeth the writ of Entry, and may be termed the Recouerer: The Tenent is he, against whom the writ is brought, and may be termed the Recoueree. The Vowchee is he, whom the tenēt vowcheth, or calleth to warrantie for the land in demand.

West. ubi supra. In whom you may read more touching this matter.

But for example, to explaine this point, a man that is desirous to cut off an estate taile in lands or tenements, to the end, to sell, giue, or bequeath it, as himselfe seeth good, vseth his friend to bring a writ vpon him for this land. Hee appealing to the writ saith for himselfe, that the land in question came to him, or his auncesters from such a man or his auncester, who in the conuicance thereof, bound him selfe and his heires to make good the title vnto him or them to whom it was conueied. And so he is allowed by the court to call in this third man to say what he can for the iustifying of his right to this land, before he so conueied it. The third man commeth not: whereupon the land is recovered by him that brought the writ: and the tenent of the land is left for his remedy to the third man that was called and came not in to defend the tenent. And by this meanes the entayle which was made by the tenent, or his auncester, is cut off by iudgement hereupon giuen: for that he is pretended to haue no power to entaile that land, whereunto hee had no iust title, as now it appeared: because it

is evicted, or recovered from him.

This kind of recovery is by good opinion, but a snare to deceive the people. *Doctor & Stud. ca. 32. dial. pri. fol. 56. a.* This feigned Recovery is also called a common Recovery: And the reason of that *Epitheton* is, because it is a beaten and common path to that end, for which it is ordeined, *viz.* to cut off the estates about specified. See the new booke of *Entries verbo, Recovery.*

I said before, that a true recovery is as well of the value, as of the thing: for the better understanding whereof, know, that (in value) signifies as much as (*Illud quod interest*) with the Civilians. For example, if a man buy land of another with warranty, which land a third person afterward by force of law recovereth against me, I haue my remedy against him that sold it me, to recover in value, that is, to recover so much in money as the land is worth, or so much other land by way of exchange. *Fitzh. nat. br. fol. 134. K.* To recover a warranty, *old nat. br. fol. 146.* is to proue by iudgement that a man was his warrant against all men for such a thing.

Recto, is a writ called in English, a writ of Right, which is of

so high a nature, that whereas either writs in reall actions, be onely to recover the possession of the land, or tenements in question, which haue beene lost by our auncester, or our selues, this aimeth to recover both the seisin, which some of our Auncelsters, or we had, and also the property of the thing, whereof our Auncelster died not seised, as of fee: and whereby are pleaded, and tryed both the rights together, *viz.* as well of possession, as property. In so much as if a man once loose his cause vpon this writ, either by Iudgement by Assise, or battell, hee is without all remedy, and shall be excluded (*per exceptionē Rei indicatā*) *Bracton lib. 5. tract. 1. cap. 1. & seqq.* where you may read your fill of this writ.

It is diuided into two species: *Rectum patens*, a writ of right patent, and *Rectum clausum*, a writ of right close. This the Civilians call *Iudiciū petitorum*. The writ of right patent is so called, because it is sent open, and is in nature the highest writ of all other, lying alwaies for him that hath fee simple in the lands, or tenements shewed for, and not for any other. And when it lieth for him that challengeth fee simple, or in what cases, See *Fitzh. nat. br. fol. pri. C.* whom see also *fol. 6.* of a speci-

speciall writ of right in *London*, otherwise called a writ of right according to the Custome of *London*. This writ also is called *Breve magnum de Recto*. Register originall. fol. 9. A. B. and *Flota li. 5. cap. 32. feft. 1.*

A writ of right close, is a writ directed to a Lord of *ancient Demesne*, & lieth for those which hold their lands and tenements by charter in fee simple, or in fee taile, or for terme of life, or in dower, if they be eiekted out of such lands, &c. or disseised. In this case a man or his heire may siew out this writ of Right close directed to the L. of the *Ancient Demesne*, commanding him to doe him right, &c. in his court. This is also called a small writ of right. *Breve paruum*, Register originall. fol. 9. a. b. and *Britton, cap. 120. in fine*. Of this see *Fitzh. likewise at large. nat. b. fol. 11. & seqq.*

Yet note that the writ of right patent seemeth farther to be extended in vse, then the originall inuention serued: for a writ of Right of Dower, which lieth for the tenent in Dower, and onely for terme of life, is patent as appeareth by *Fitzh. nat. b. fol. 7. E*. The like may be said of diuers others that doe hereafter follow. Of these see also the table of the *original Regist. verbo Recto*. This writ is proper-

ly tried in the Lords court betweene kindsmen, that claime by one title from their Auncelster. But how it may be thence remoued, and brought either to the County, or to the Kings court, see *Flota, lib. 6. cap. 3. 4. & 5. Glauvile* seemeth to make euery writ, whereby a man sieweth for any thing due vnto him, a writ of right. *lib. 10. ca. 1. lib. 11. cap. 1. lib. 12. cap. 1.*

Recto de dote, is a writ of Right of Dower, which lieth for a woman, that hath receiued part of her Dower, and purposeth to demaund the Remanent in the same towne, against the heire, or his Gardian, if he be ward. Of this see more in the *old nat. b. fol. 5. and Fitzh. fol. 7. E.* and the Register originall, fol. 3. and the new booke of *Entries, verbo Droyt*.

Recto de dote unde nihil habet, is a writ of right, which lieth in case, where the husband hauing diuers lands or tenements, hath assured no dower to his wife, and shee thereby is driven to siew for her thirds against the heire or his Gardian. *old nat. b. folio 6. Register originall, fol. 170.*

Recto de rationabili parte, is a writ that lieth alway, betweene priues of blood, as brothers in *Ganel-kind*, or sisters, or other Coparceners, as Nephewes, or

Necesses, and for land in Fee simple. For example, if a man lease his land for terme of life, and afterward dyeth, leauing issue, two daughters, and after that the tenent for terme of life likewise dyeth: the one sister entering upon all the land, and so deforcing the other; the sister so deforced, shall haue this writ to recouer part. *Fitz. nat. br. fol. 9. Register origin. fol. 3.*

Recto quando Dominus remisit is a writ of right, which lyeth in case, where lands or tenements that be in the Seigneury of any Lord, are in demaund by a writ of right. For if the Lord hold no court, or otherwise at the prayer of the Demandant, or Tenent, shall send to the Court of the King his writ, to put the cause thither for that time (sauing to him auother time the right of his Seigneury) then this writ issueth out for the other party, and hath this name from the words therein comprised, being the true occasion thereof. This writ is close, and must be returned before the Iustices of the common Banck. *old. nat. br. fol. 16. Regist. orig. fol. 4.*

Recto de Advocatia Ecclesia, is a writ of right, lying where a man hath right of *Advowzen*, & the Parson of the Church dying, a stranger presenteth his Clerke to the Church, and he not hauing

moued his action of *Quare im-
pediit* nor *darrein presentment* within six moneths, but suffered the stranger to vsurpe vpon him. And this writ he only may haue, that clai neth the Advowzen, to himselte and to his heires in fee. And as it lieth for the whole advowzen: so it lyeth also for the halfe, the third, the fourth part. *old. nat. br. fol. 24. Register originall. fol. 29.*

Recto de custodia terra & heredis, is a writ that lieth for him, whose Tenent holding of him in Chivalry, dieth in his nonage, against a stranger, that entreth upon the land, and taketh the body of the heire. The forme, and farther vse whereof see in *Fitz. nat. br. fol. 139. and the register originall. fol. 161.*

Recto sur disclaimer, is a writ that lyeth, where the Lord in the Kings court, &c. in the common plees, doth avow vpon his Tenent, and the Tenent disclaimeth to hould of him, vpon the disclaimer he shal haue this writ: and if the Lord auerre, and proue that the land is holden of him, he shall recouer the land for euer. *old. nat. br. fol. 150. which is grounded vpon the statute, Westm. 2. ca. 2. anno 13. Ed. pri. which statute beginneth. Quia Domini feudorum, &c.*

Rector, is both Latine, and English, signifying a Gouernor. In

the common law *rector ecclesie parochialis*, is he that hath the charge, or cure of a parish Church: *qui tantum in ecclesia parochiali habet quantum praelatus in ecclesia collegiata. ca. ult. De locat. & Conduct. in gloss. verbo expelli potuissent.* In our common law, I heare that it is lately over-ruled, that *rector ecclesie parochialis* is he that hath a personage where there is a vicarage, endowed: and hee that hath a personage without a vicarage, is called *persona*. But this distinction seemeth to be new and subtiler *præter rationem*. I am sure *Bracton* useth it otherwise, *lib. 4. tracta. 5. ca. pri.* in these words. *Et sciendū quod rectoribus ecclesiarū parochialium cōpetit Assisa qui instituti sunt per Episcopos & Ordinarios ut persona.* Where it is plaine, that *rector* and *persona* be confounded. Mark also these words there following: *Itē dici possunt rectores Canonici de ecclesiis prebendatis. Itē dici possunt rectores, vel quasi, Abbates, Priores & alij, qui habent ecclesias ad proprios usus.*

Rectus in curia, is he that standeth at the barre, and hath no man to object any offence against him. *Smith de repub. Angl. li. 2. c. 3. see a. 6. R. 2. sta. 1. c. 11.*

Reddendū, is used many times substantiue for the clause in a

lease, &c. Whereby the rent is reserved to the lessour. *Coke lib. 2. Lord Cromwells case. fol. 72. b.*

Redisseisin (*redisseisina*) is a disseisin made by him, that once before was found, and adjudged to haue disseised the same man of his lands, or tenements. For the which there lyeth a speciall writ, called a writ of *redisseisin*. *old. nat. br. fol. 106. Fitz. nat. br. fol. 188.* See the new booke of *Entries. verb. Redisseisin.*

Redisseisina, is a writ lying for a *redisseisin*. *Reg. orig. f. 206. 207*
Reddicion, is a iudiciall confession, and acknowledgment that the land or thing in demand belongeth to the demandant, or at the least, not to himselfe. *a. 34. & 35. H. 8. ca. 24. Perkins Domes. 379. 380.*

Redubbours, be those that buy cloth, which they know to be stolen, and turne it into some other forme or fashion. *Britton. c. 29. Croppons Vicount. fol. 193. a.*

Reentry, cometh of the French (*retrer*) *i. rursus intrare*, & signifieth in our common law, the resuming, or taking againe of possession, which we had earst forgone. For example, if I make a lease, of land, or tenement, I do thereby forgoe the possession, and if I doe condition with the *Leassoe*, that for non payment of the rent at the day it shall be lawfull for me to reenter, this

is as much as if I conditioned to take againe the lands, &c. into mine owne hands, and to recover the possession by mine owne fact without the assistance of Iudge or proces.

Reere county. See *Rier County*.

Reextent, is a second extent made upon lands, or tenements, vpon complaint made, that the former extent was partially performed. *Brooke, titulo. Extent. fol. 313.*

Regard (*regardū*) is borrowed of the French *Regard*, or *Regardure*. i. *aspectus, conspectus, respectus.* and though it have a generall signification of any care or diligence: yet it hath also a speciall acceptance, and therein is vsed onely in matters of the Forrest: and there two waies: one for the office of the *Regarder*, the other for the compasse of ground belonging to the *Regarders* office or charge. *Cromptons Iurisd. fol. 175. 199.* Touching the former, thus saith *M. Manwood, parte pri.* of his Forest laws. pag. 198. The Eire, generall sessions of the Forest, or Iustices seat, is to bee holden, and kept euery third yeere: and of necessity before that any such sessions or Iustices seate can be holden, the *Regarders* of the Forest must make their *Regard*. And this making of the *Regard*

must be done by the Kings writ. And the *Regard* is, (as he afterward there saith) to go through the whole Forest, and euery Bayliwicke of the same, to see and enquire of the trespasses of the Forest: which he compriseth in these 4. viz. *ad videndum, ad inquirendum, ad imbreuiandū, ad certificandum.* Of euery of which branches you may read the chiefe exposition.

Touching the second signification, the compas of the *Regarders* charge is the whole Forest, that is, all that ground, which is parcell of the Forest. For there may be Woods within the limits of the Forest, that be no parcell thereof, and those be without the *Regard*, as the same Author plainly declareth, parte pri. pag. 194. and againe parte 2. cap. 7. nu. 4. where he sheweth the difference betweene these words: (*Infra regardum*) or (*Rewardum*) & *infra Forestam*.

Regarder (*Regardator*) commeth of the French (*Regardeur*) id est, *Spectator* and signifieth an officer of the Forrest. *Cromptons Iurisd. fol. 153.* where it is thus defined. A *Regarder* is an officer of the Forrest, appointed to surview all other Officers. He saith there also, that this officer was ordeined in the beginning of

King Henry the seconds dayes. *M. Manwood* in his first part of *Forest laws*. pag. 188. thus defineth him. A Regarder is an officer of the Kings Forest, that is sworne to make the Regard of the Forest, as the same hath been vsed to bee made in auncient time. And also to view and inquire of all offences of the Forest, as well of vert as of venison, and of all concealments of any offences or defaults of the Foresters, and of all other officers of the Kings Forest, concerning the execution of their offices. He saith there also, that a Regarder may be made either by the Kings letters patents, or by any one of the Kings Iustices of the Forest at his discretion in the generall Eyre, or at such time, as the Regard is to be made, by vertue of the Kings writ, directed to the Shyreue of the County for that purpose. The forme of which writ hee there setteth downe.

After that pag. 192. he setteth downe his Oath in these words. *You shall truely serue our Soueraigne Lord the King in the office of a Regarder in the Forest of Waltham. You shall make the Regard of the same in such manner, as the same hath bene accustomed to bee made. You shall raunge through the whole Forest, and through euery*

Baylimick of the same, as the Foresters there shall lead you to view the said Forest. And if the foresters will not, or doe not know how to lead you, to make the regard or raunge of the Forest, that they will conceale from you any thing that is forfeited to the King, you, your selues shall not let for any thing: but you shall see the same forfeiture, and cause the same to be inrolled in your roll. You shall inquire of all wastes, pourpurses, and Asserts of the Forest, and also of concealments of any offence, or trespasse in the Forest: and all these things you shall to the uttermost of your power doe, so helpe you God. Then you may read farder the particulars of his office. eadem, pag. 195. And pag. 207. he saith, that their presentments must be upon their view, and so recorded, and that the Regarders of themselves haue power to heare and determine the fine, or amerciamment for expeditating of dogs. See Regard.

Regio assensu, is a writ whereby the King giueth his Royall assent to the election of a Bishop or Abbot. *Register origin.* fol. 294. b.

Registrie (*Registru*) commeth of the French (*Registre i. liber, librum, codex ratiocinarius, ephemeris, comentarius*) it signifieth

fieth with vs the office, or books, or rolls, wherein are recorded the proceedings of the Chauncerie, or any spirituall Court. The writer and the keeper whereof is called the Register, in latine, *Registrarius*. Register is also the name of a booke, wherein are expressed all the formes of writs vsed at the common law, called the Register of the Chancery. *Anno 13. Ed. pri. cap. 24.* Some say it is tearmed *Registrum, quasi Regestum. Prateus.*

Regrator (regrator) cometh of the French (*regratter i. desquamare.*) *Regratter quelque vieille robe & la faire neuue* is to scour or furbush an old garment and to make it new againe. Also (*regratteur*) signifieth as much as (*Mango*) in Latine: which kind of men sold children, and to sell them the better, *mentiendi coloris artem optimè callebant. Martialis & Plinius.* This word in our common law, did anciently signifie such as bough by the great, and sold by retayle. *anno 27. Ed. 3. stat. prim. cap. 3.* but now it signifieth him, that buyeth and selleth any wares, or victuals in the same market, or faire, or within 5 miles thereof. *anno 5. Ed. 6. cap. 14. anno 5. Eliz. cap. 12. anno 13. Eliz. cap. 25 See Fore-*

stallers and Engrossers.

Rehabere facias seisinā quando Vice comes liberavit seisinam de maiore parte, quam deberet, is a writ Iudiciall. *Regist. Iudicial. fol. 13. 51.* There is another writ of this name and nature. *eodem fol. 54.*

Reioynder (reiuñctio) signifieth in our common law, as much as *Duplicatio* with the Ciuilians, that is, an exception to a replication. For the first answer of the Defendant to the Plaintiffes bill, is called an exception: the Plaintiffes answer to that, is called a Replication: and the Defendants to that, Duplication in the Ciuill law, and a Reioynder with vs, especially in Chancery. *West. parte 2. symb. titulo Chancery sect. 56.* where he citeth these words out of *Spigelius. Est autem reiuñctio seu duplicatio, vel allegatio, que datur reo ad infirmandum replicationem actoris, & confirmandum exceptionem Rei.*

Relation (relatio) idem quod fictio iuris, to make a nullity of a thing from the beginning, (for a certaine intent) which had essence *Cook lib. 3. Butler & Baker. fol. 28. b.* which in plainer termes may be thus expounded. Relation is a fiction of the law, whereby something is (for a speciall purpose) imagined neuer to have beene, which in

truth was. Read the rest.

Release (*relaxatio*) commeth of the French (*Relasche*.i. *cessario*, *relaxatio*, *laxamentum*) and in our common law is thus defined: A release is an Instrument whereby estates, rights, titles, entries, actions, and other things be some time extinguish'd, some time transferred, sometime abridged, and sometime enlarged. *West. parte pri. symbol. lib. 2. sect. 509.* And there is a Release in fact, and a release in law. *Perkins Grauntis 71.* A release in fact seemeth to be that, which the very words expressly declare. A Release in Law is that, which doth acquite by way of consequent, or intendment of law. An example whereof you haue in *Perkins ubi supra.* Of these, how they be auailable, and how not, see *Littleton at large. li. 3. cap. 8. fol. 94.* of diuers sorts of these Releases see the new booke of Entries. *verbo Release.*

Reliefe (*releuium*) commeth of the French *releuer*.i. *releuare*, and signifieth in our common lawe, a certaine summe of money, that the tenent holding by knights seruice, grand sergeantie, or other tenure, for the which homage or regall seruice is due, or by foccage, for the which no homage is due, and being at full age at the death of

his auncestour, doth pay vnto his Lord at his entrance. *Bracton lib. 2. cap. 36.* giueth a reason why it is called a Reliefe. *viz. quia hereditas, que iacens fuit per antecessoris decessum, releuatur in manus heredũ, & propter factã releuationẽ, facienda erit ab herede quedã prestatio, que dicitur Releuiũ.* Of this you may read *Britton. c. 69.* in a manner to the same effect. Of this also speaks the *Grand Customary of Normandy, cap. 34.* to this effect: It is to be knowne, that the Lord of the fee ought to haue reliefe of the lands, which be held of him by homage, when those die, of whom hee had homage. And that this is not onely proper to vs in *Eng. or Normandy*, appeareth by *Hotoman* in his *Cõmẽtaries de verbis feud. verbo Releuiũ*, who therẽ defineth it thus: *Releuiũ est honorarium, quod novus vasallus patrono introitus causa largitur, quasi morte vasalli alterius, vel alio quo casu feudũ ceciderit: quod iam à novo subleuetur:* and farther speaketh of it, that which is worth the reading, and containes great knowledge of antiquitie. See the like definition in *Marãta singularibus. verbo Releuiũ.* For the quantity of this reliefe, see the *Great charter, cap. 2.* in these words: If any of our Earles or Barons, or any other our

our tenents, which hold of vs in chiefe by knights seruice, dye; and at the time of his death his heire is of full age, and oweth to vs reliefe, he shall haue inheritance by the old Reliefe: that is to say, the heire, or heires of an Earle for one whole Earldome one hundred pound: the heire or heires of a Baron for one whole Barony, one hundred markes: the heire or heires of a Knight, for one whole Knights fee, one hundred shillings at the most. And he that hath lesse, shall giue lesse, according to the old custome of the fees. Read also *Glanvile lib. 9. cap. 4. fol. 68.* who saith, that in his dayes the Reliefe of a Barony was not certaine. The heire in francke socage, when hee commeth to his full age, after the death of his auncester, shall double the rent that hee was wont to pay to the Lord, and that shall be in place of reliefe. *old nat. br. fol. 94.* Somewhat more hereof you may read in *anno 28. Ed. prim. statut. prim.* and *Kitchin fol. 145. ca. Reliefe.* and *Glanvile, lib. 7. cap. 9.* The Feudists also write of this at large. Among others *Vincētius de Frāchis descis. 121.* saith, that *Relevy solutio est quedā extrinseca prestatio à cōsuetudine introducta, qua non inest feudo. quodq; solvitur pro confirmatio-*

ne, seu renouatione investiturae & possessionis. See *Heriot.* This *Leo* the Emperour *Novella 13.* calleth εὐσεβισμός. By the ancienter ciuile law it is termed *introitus, l. penult. sect. Alumno. & de legatis.* *Skene de verb. signif.* saith, that Reliefe is a French word from the Latine *relevare*, which is to relieue or take vp that which is fallen. For it is giuen by the tenant, or vassal being of perfect age, after the expiring of the wardship to his Lord, of whom he holds his land by Knights seruice, that is, by ward and reliefe; and by payment thereof he relieues, and (as it were) raiseth up againe his lands, after they were falled downe into his superiours hands by reason of wardship, &c.

Remainder (remanencia) signifieth in our cōmon law, a power or hope to inioy lands, tenements, or rents after the estate of another expired. For example, a man may let land to one for terme of his life, & the Remainder to another for terme of his life. *Listerō cap. Atturmet. fol. 113.* And this Remainder may be either for a certaine terme, or in fee simple, or fee taile, as might be proued by many places in the law writers. But in steed of the rest, take *Brook, titulo Done & Remainder. f. 245. Glanvile. l. 7. ca. pri. in fine* hath these words:

Not an.

Notandum quod nec Episcopus, nec Abbas, quia eorū Baronia sunt de eleemosina Domini Regis, & antecessorū eius, non possunt de Dominio suis aliquā partem dare ad remanentiā sine assensu & confirmatione Domini Regis. Where it appears that *Dare ad remanentiā*, isto give away for ever. To the same effect doth hee vse it *cap. 9. eis. de lib. i.* in these words, speaking of the Lords of maners during the minority of their wards. *Nihil tamen de hereditate de iure alienare possunt ad remanentiā.* In the like sort doth *Bracton* vse it. *lib. 2. cap. 23 in fine*: and also *lib. 4. tract. 2. c. 4 nu. 4.* See the new booke of Entries. *verbo Remainder.*

Remembrancers of the Exchequer (Rememoratores) be three officers, or clerks, one called the Kings Remembrancer. *anno 35. El. cap. 5.* The other the Lord Treasurers Remembrancer, vpon whose charge it seemeth to lye, that they put all Iustices of that court, as the Lord Treasurer and the rest, in remembrance of such things, as are to be called on, and delt in for the Princes behoofe. The third is called the Remembrancer of the first fruits. Of these you may read something. *anno 5. Rich. 2. stat. pri. cap. 14. & 15.* to the effect aboue specified. These *anno 37. Ed. 3. cap. 4.* be called clerkes of

the Remembrance. It seemeth that the name of this officer is borrowed from the Ciuitians, who haue their *Memorales*, qui sunt notarij Cancellarie in regno subiecti officio *Questoris*. *Lucas de penna. C. lib. 10. tit. 12. nu. 7.* The Kings Remembrancer entreteth in his office all recognisances taken before the Barons for any the Kings debts. for apparences, or for obseruing of orders. He takes all bonds for any of the kings debts, or for appearance, or for obseruing of orders, and maketh proces vpon them for the breach of them. He writeth proces against the collectors of customes, subsidies and fiue-teenths, for their accompts. All informations vpon penall statutes are entred in his office. And all matters vpon English bills in the Exchequer-chamber are remaining in his office. He maketh the bills of compositions vpon penall lawes: taketh the stalments of debts: maketh a record of a certificate deliuered vnto him by the clerke of the Starre-chamber of the fines there set, & sendeth them to the pipe. He hath deliuered vnto his office all maner of indentures, fines, and other euidences whatsoever, that concerne the assuring of any lands to the Crowne. He yearely in *crastino animarum* readeth in open court the statute for the elections

elections of Shyreuees, and giueth those that chuse them their oath: hee readeth in open Court the oath of all the Officers of the Court, when they are admitted.

The Treasurers remembrancer maketh proces against all Shyreuees, Escheatours, Receiuers, and Bayliffes for their accompts. He maketh proces of (*Fieri facias*) and Extent for any debts due to the King, either in the Pipe, or with the Auditors. He maketh proces for all such Reuenew as is due to the King by reason of his Tenures. Hee maketh a Record, whereby it appeareth whether Shyreuees and other accountants pay their profers due at Easter and Michaelmas. Hee maketh another Record, whereby it appeareth, whether Shyreuees and other Accountants keepe their dayes of prefixion. All Extreates of Fines, Issues, and amerciaments set in any Courts of *Westminster*, or at the Assises, or Sessions, are certified into his Office, and are by him delivered to the Clarke of Extreates to write proces upon them. Hee hath also brought into his Office all the accompts of Customers, Controllers, and other accomptants to make thereof an entry of Record.

The Remembrancer of the first fruites, taketh all compositi-

ons for first Fruitess and Tenthes, and maketh proces against such as pay not the same.

Remitter, commeth of the French (*remettre*. i. *restituere*, *reponere*) and signifyeth in our common Law, a restitution of one that hath two titles to Lands or Tenements, and is seised of them by his latter Title, vnto his title that is more auncient, in case where the later is defectiue. *Fitzherbert naturabrev. fol. 149. F. Dyer folio 68. num. 22.* This in what case it may be graunted to any man, see in *Brooke titulo Remitter*: and the Termes of Law. The Doctor and Student, of this matter hath these words: if land discend to him that hath right to that Land before, hee shall be remitted to his better title, if hee will. *Cap. nono fol. 19. b.* See the new Booke of Entries: *verbo Remitter*.

Render, commeth of the French (*Rendre*. i. *reddere*, *retribuere*, *restituere*) and signifyeth in our Common Law, the selfesame thing. For example, this word is used in leuying of a Fine. For a Fine is either single, by which nothing is graunted, or rendred backe againe by the Cognizee, to the Cognizour: or double, which containeth a graunt, or render backe againe of some Rent common,

or other thing out of the Land it selfe to the Cognisor, &c. *West. parte 2. symbol. titulo Fines. sect. 21. & 30. F.* Also there bee certaine things in a Manor that lye in *Prender*, that is, which may be taken by the Lord or his Officer, when they chaunce, without any offer made by the Tenant, as the Ward of the body of the Heire, and of the Land, Escheats, &c. and certaine that lye in *Render*, that is, must be delivered or answered by the Tenant, as Rents, Relieves, Heriots, and other services. *Idem eodem. sect. 126. C.* Also some service consisteth in seisance, some in Render. *Perkins. Reservations. 696.*

Rent, (*reditus*) commeth of the French (*Rent. i. vectigal, pensitatio, annua*) and signifieth with us, a summe of money or other consideration issuing yearely out of Land or Tenements. *Plowden, casu Browning. fol. 132. b. & fol. 138. a. 141. b.* There be three sorts of Rents observed by our Common Lawyers: that is, Rent service, Rent charge, and Rent seck. Rent service is, where a man holdeth his Land of his Lord by Fealty, and certaine Rent, or by Fealty, Service, and certaine Rents. *Littleton lib. 2. cap. 12. fol. 44.* or that which a man, making a lease to another for terme of yeares, reserveth yearely to bee paid him for the

same. *Termes of Lawe. verbo Rents.* who giveth this reason thereof, because it is in his liberty, whether hee will distreine, or bring an action of Debt. A Rent charge is that which a man making over an estate of his land, or tenements to another, by deed indented, either in fee, or fee taile, or lease for terme of life, reserveth to himselfe by the said Indenture a summe of Money yearely to be paid unto him with clause of distresse, or to him and his heires. See *Littleton ubi supra.* A Rent seck otherwise a dry Rent, is that, which a man making over an Estate of his Land or Tenement, by Deede Indented, reserveth yeerely to bee paid him without clause of distresse mentioned in the Indenture. *Littleton ubi supra.* and *Termes of the Law. verbo Rents.* See the new Expositor of Law *Termes*: See *Plowden, casu Browning. fol. 132. b.* See the differences betweene a Rent and an Annuity. *Doctor and Student. cap. 30. dialog. primo.*

Reparatione facienda, is a writ, which lyeth in divers cases, whereof one is, where three bee tenants in common, or joynt tenants, or *pro Indiviso*, of a mille, or house which is fallen into decay, and the one being willing to repaire it, the other two will

will not. In this case, the party willing shall have this writ against the other two. *Fitzh. nat. br. fol. 127.* where read at large the form and many vses of this writ, as also in the *Regi. orig. fol. 153. b.*

Repeale, commeth of the French (*Rappel. i. Revocatio*) and signifieth in our Common lawe even the same; as the Repeale of a statute, *Rastall titulo Repeale.* *Brooke* vseth Repellance in this signification, *titulo Repellance.*

Repleader (*Replacitare*) is to plead againe, that which was once pleaded before. *Rastall, titulo Repleader.* See the newe booke of *Entries, verbo Repleader.*

Replegiare. See *Replevie.* See *Second deliverance.*

Replevie (*Plevina*) is the bringing of the writ called *Replegiari facias*, by him that hath his cattell or other goods distreined by another for any cause, and putting in surety to the Shyreue, that upon the delivery of the thing distreined, he will persiew the action against him that distreined. *Termes of lawe.* See *Replegiare.* It is vsed also for the bayling of a man. *pl. cor. fol. 72. 73. 74. & West. pri. cap. 11. & cap. 15. anno 3. Ed. 1.*

Replegiare de averiis, is a writ brought by one, whose cattell bee distreined or put in pound vpon any cause by another, upon *surety given to the Shyreue*

to persiew the action in lawe *anno 7. H. 8. cap. 4. Fitzh. nat. br. fol. 68.* See the Register originall, of divers sorts of this writ called *Replegiare*, in the table, *verbo eodem.* See also the Register Iudiciall, *fol. 58. & 70.* See also the newe booke of *Entries, verbo Replevin.* See *Dyer. fol. 173. nu. 14.*

Replevis (*Replegiare*) is to let one to mainprise vpon suretie, *anno 3. Ed. 1. cap. 11.*

Replication (*replicatio*) is an exception of the second degree made by the plantife upon the first answer of the Defendant, *West. parte 2. symbol. titulo Chanceric. sect. 55. & West. 2. anno 13. Ed. pri. cap. 36.* This is borrowed from the Ciuilians, *De replicationibus, li. 4. Institutio. titulo. 14.*

Report (*Reportus*) is in our common law a relation, or repetition of a case debated, or argued; which is sometime made to the court, upon reference from the court to the Reporter, sometime to the world voluntarily, as *Ploydens reports*, and such like.

Repossession of the Forest, was an act wherby certain forest grounds being made purlicu upon view, were by a second view laide to the Forest againe. *Manwood, parte pri. pag. 178.*

Reprisels (*Reprisalia*) are all one in the common and civil law. *Reprisalia est potestas pignorandi contra quemlibet de terra debitoris*

res data creditori pro iniuriis & damnis acceptis. Vocabularius uiriusq; juris. This among the auncient Romans was called (*Clarigatio*) of the verb (*Clarigo. i. res clare repeto*) It is called in the statute anno 27. Ed. 3. stat. 2. cap. 17. *lawe of Marque*, of the German word *March. i. terminus limes*. And the reason may be, because one destitute of Iustice in another territory, redresseth himselfe by the goods belonging to men of that territory, taken within his owne bounds.

Requests (Supplicum libelli, Curia Requisitionum) is a Court of the same nature with the Chancery, redressing by equitie the wrongs that poore men doe suffer at their hand, whose might they are not able to withstand either in lawe or otherwise. It tooke beginning as some men thinke, by commission from King Henry the 8. before which time the Masters of Requests had no warrant of ordinary Iurisdiction, but travailed betwene the Prince and perioners, by direction from the mouth of the King. *Guins preface to his readings*. But see *Court of Requests*.

Resceyt (Receptio) seemeth to be an admission of a third person to pleade his right in a cause formerly commenced,

betweene other two. See the newe booke of *Entries. verbo Resceit. v. Aide prier*. The Ciuilians call this *admissionem tertii pro suo interesse*. Of this you haue one example in the *Termes of lawe*, viz. if Tenent for terme of life, or tenent for terme of yeares bring an action: he in the reuerfion commeth in, and prayeth to be received to defend the land, and to plead with the Demandant. Many more you may haue in *Brooke, titulo, Resceite fol. 205*. See *Perkins Dower. 448*. Receit is also applied to an admittance of plee, though the controuersie be but betweene two onely. *Brooke estoppel. in many places*.

Resceyt of homage, is a relative to doing homage, for as the Tenent, who oweth homage, doth it at his admission to the land: so the Lord receiueh it. *Kitchin fol. 148*. See *Homage*.

Rescous (Rescussus) commeth of the French (*Rescours se Rescours du danger. i. asserere se ab iniuria*). It signifieth in our common law a resistance against a lawfull authoritie: as for example, if a Baylife, or other officer vpon a writ doe arrest a man, and another (one or more) by violence doe take him away, or procure his escape: this act is called, a *Rescous*. *Cassanens* in his booke *de conuersud. Ruro*. hath the

the same word coupled with (*resistentia*) fol. 294. whereby it appeareth, that other nations doe vse this word in the same signification that we doe, or the very like. It is also used for a writ, which lyeth for this act called in our lawyers latine (*Breue de rescessu*) whereof you may see both the forme and use in *Fitzh. nat. br. fol. 101.* and the register original: fol. 125. See the new booke of Entries. *verbo rescous*. This *rescous* in some cases is treason, and in some felony. *Crompton. Iustice fol. 54 b.*

Refeiser (rescisire) is a taking againe of lands into the Kings hands, whereof a generall livery, or *ouster le main* was formerly misused by any person or persons, and not according to forme and order of law. Of this see *Stawm. praroga: 26.* where it is handled at large. See *resumption*.

Resiance (resiantia) seemeth to come of the French (*rasseoir*, see *Rasseoir. i. residere*) and signifieth a mans abode or continuance in a place. *Old nat. br. fol. 85.* whence also commeth the participle (*resiant*) that is continually dwelling, or abiding in a place. *Kitchin. fol. 33.* It is all one in truth with Residence, but that custome of speech tyeth that onely to persons ecclesiasticall.

Reservation, signifieth that rent or seruice which the graunter in

any graunt tyeth the grauntee to performe vnto him, or them, or the Lord *Paramonte*. *Perkins reservations. per totum.*

Residence (residentia) commeth of the Latine (*residere*) and is peculiarly vsed both in the Canon and Common lawe, for the continuance or abode of a Parson or Vicar upon his benefice. The default whereof (except the partie be qualified, and dispenced with) is the losse of tenne pounds for euery moneth, anno 28. *Henr. 8. cap. 13.*

Resignation (resignatio) is used particularly for the giuing up of a Benefice into the hands of the Ordinarie, otherwise called of the Canonists (*renunciatio*.) And though it signifie all one in nature with the word (*Surrender*) yet it is by vse more restrained to the yeelding up of a spirituall liuing, into the hands of the Ordinarie, and *Surrender* to the giving up of temporall lands into the hands of the Lord. And a resignation may now be made into the hands of the King, as well as of the Diocesan, because he hath *supremam auctoritatem Ecclesiasticam*, as the Pope had in time past. *Plowden. casu Grendon. fol. 498.*

Resort, is a word used properly in a writ of ayle, or counse-

nage, as discent is in a writ of right. *Ingham.*

Respectu computi Vice-comitis habendo, is a writ for the respiting of a Shyreuees accompt upon just occasion, directed to the Treasurer and Barons of the Exchequer. *Register fol. 139 & 279.*

Respite of homage, (*respectus homagii*) is the forbearing of homage, which ought first of all to bee performed by the tenant, that holdeth by homage. Which respite may bee occasioned upon divers good reasons: but it hath the most frequent vse in such as hold by Knights seruice *in capite*: who because the Prince cannot bee at leasure to take their homage, doe pay into the Exchequer, at certaine times in the ycare, some small summe of money to bee respighted, untill the Prince may bee at leasure to take it in person.

Responsions (*responsiones*) seemes to bee a word vied properly and especially by the Knights of *S. Iohn of Ierusalem*, for certaine accompts made unto them by such as occupied their landes or stocks. *anno 32. H. 8. cap. 24.*

Responsalis, is he that cometh for another at the day assigned for his appearance in Court, *Bracton. Fleta* seemeth to make a difference betweene

aturnatum, effoniatorem & responsalem, lib. 6. cap. 11. §. Officium: as if *effoniator* came onely to alledge the cause of the parties absence, bee he the demandant or tenant, and *responsalis* came for the tenant not onely to excuse his absence, but also to signifie what triall he meant to undergoe, viz. the combat or the Countree. *lib. 6. cap. 11. §. Si autem*. A man in auncient time could not appoint an Atturney for him, without warrant from the king. *Fleta, eodem cap. 13. in fine.* See *Atturney*. This word is vsed in the Canon lawe, *Et significat procuratorem vel eum qui absentem excusat, cap. Cum olim propter. extra. de rescript.*

Restitucion (*restitutio*) is a yeelding vp againe of any thing unlawfully taken from another. It is vsed in the common law, most notoriously for the setting him in possession of lands or tenements, that hath bene unlawfully disceised of them, which when it is to be done, and when not, see *Cromptons Iustice of peace. fol. 144. b. & c. vsque 149.*

Restitucione extracti ab Ecclesia, is a writ to restore a man to the Church, which he had recouered for his sanctuarie being suspected of felonie. *Register orig. fol. 69. a.*

Restitucione temporalium, is a writ that lyeth in case, where a

man being elected, and confirmed Bishop of any Diocesse, and hath the Princes Royall assent thereunto, for the recoverie of the Temporalities, or Baronie of the said Bishopricke, with the appurtenances. And it is directed from the King to the Escheatour of the Countie, the forme whereof, you have in the *Regist. orig. fol. 294.* and in *Fitz. nat. br. fol. 169.* Where you may reade also, that it lieth for those Abbots and Priors, newly elected and confirmed, that were of the Kings foundation.

Resummons (resummonitio) is compounded twice, that is, of *re*, *sub*, and *Aloneo*: and signifieth a second summons, and calling of a man to answer an action, where the first summons is defeated by any occasion, as the death of the partie, or such like, *Brooke, titu.* See *Resummons, fol. 214.* See of these foure sorts, according to the foure divers cases in the Table of the *Register Indiciall, fol. 1.* See also the new booke of Entries, *verbo, Reattachement, & Resummons.*

Resumption (resumptio) is particularly used for the taking againe into the Kings hands, such land or tenements, as before upon false suggestion, or other error, hee had delivered to the heire, or granted by Letters Patents to any man, *Brooke, titulo*

Repellance, & Resumption, fo. 298. Thus it is applyed, *anno 31. H. 6. cap. 7.* See *Reseifer.*

Retainer, commeth of the French (*retenir. i. detinere, retinere*) It signifieth in the common law, a servant not meniall nor familiar; that is, not continually dwelling in the house of his Lord or Master, but onely using, or bearing his name or Liverie. This Liverie was wont to consist of Hats (otherwise hoods) Badges, and other suits of one garment by the yeare, *anno 1. R. 2. cap. 7.* These were taken by great Lords, many times upon purpose of maintenance, and quarrels, and therefore they have beene justly, for the better freedome of Law, forbidden by many Statutes: as namely by *anno 1. Rich. 2. cap. 7.* upon paine of imprisonment, and grievous forfeiture to the King: and againe, *anno 16. ejusd. cap. 4.* & *anno 20. ejusdem, cap. 1.* & *2.* and *anno prim. H. 4. cap. 7.* by the which, the Lords offending herein, should make ranfome at the Kings will, and any Knight or Esquire hereof duly attainted, should lose his said Liverie, and forfeit his fee for ever; and any Yeoman wearing the Liverie of the King, or other Lord, should bee imprisoned, and make ranfome at the Kings will, onely some few excepted in the said statute: which statute

is further confirmed, and explained *anno 2. H. 4. cap. 21. & an. 7. eiusd. cap. 14. & anno 13. eiusd. cap. 3. & anno 8. H. 6. ca. 4.* And yet this offence was so deeply rooted, that *Edward* the fourth was driven to confirme the former statutes, and further to extend the meaning of them, as appeareth by the statute made *anno 8. Ed. 4. cap. 2.* adding an especiall paine of five pounds to every man that giveth such Livery, and as much to every one so retained, either by writing, oath, or promise, for every moneth. Yet is not this fault so well looked unto, but that there is need of more pregnant lawes for the redresse thereof, or at the least better execution of those, that bee already made. These bee by the Feudists called (*affidati*.) *Sic enim dicuntur, qui in alicuius fidei & tutelam receperunt. Neapol. constit. li. 3. titulo 7.* And as our retainers are here forbidden: so are those (*affidati*) in other countries.

Retraxit, is an exception against one that formerly commenced an action, and withdrew it, or was non-suit before triall. *Brooke. titulo. Departure in despiight, & Retraxit. fol. 216.* See also the new booke of Entries: *verbo Deperter & verbo retraxit.*

Returne (*returra*) commeth of the French (*recour. i. redicio, reuer-*

sio, recursus) and in our common law, hath two particular applications, as namely the return of a writ by *Shyreuees*, and *Bayliffs*, which is nothing but a certificate made to the Court, wherunto the writ directeth him, of that which he hath done, touching the serving of the same writ. And this among the Civilians is called *Certificatorium*. Of returnes in this signification, speake the statutes of *Westm. 2. cap. 39. anno 13. Ed. prim.* and *Tractatus contra Vice-comites & Clericos*, with divers other, collected by *Rastal, titulo Returne of Shyreuees*. So is the returne of an office, *Stawf. prerog. fol. 70.* a certificate into the court, of that which is done by vertue of his office: See the *Statutes of dayes in banke. anno 51. H. 3. & anno 32. H. 8. cap. 21.* And in this signification *Hilary terme* is said to have 4. returnes. *viz. Octabis Hilarii, Quindena Hilarii, crastino Purificationis, Octabis Purificationis*: and *Easter terme* to have 5. returnes, *viz. Quindena pasche, Tres pasche, mense pasche, Quinq. pasche, & crastino Ascensionis.* And *Trinity terme* 4. returnes. *i. Crastino Trinitatis, Octabis Trinitatis, Quindena Trinitatis, Tres Trinitatis.* And *Michaelmas Terme* 8. returnes. *sc. Octabis Michaelis, Quindena Michaelis, Tres Michaelis, Mense Michaelis, Cra-*

stino animarum, Craſtino Martini, Octabis Martini, Quindena Martini.

The other application of this word is in caſe of *Repleuy*. For if a man diſtraine cattell for rent, &c. And afterward iuſtifie or avowe his act, that it be found lawfull, the cattell before deliivered unto him that was diſtrained upon ſecurity given to follow the action, ſhall now be returned to him, that diſtrained them. *Brooke, titulo Returne d'auers & hommes, fol. 218.* you ſhall finde this word often uſed in *Fitzb. nat: br.* as appeareth in the word *Returne* in his table: but in all thoſe places it hath the one or the other of theſe two ſignifications.

Returno habendo, is a writ, which lyeth for him that hath avowed a diſtreſſe made of catell, and proued his diſtreſſe to be lawfully taken for the returne of the catell diſtrained vnto him, which before were repleuied by the party diſtrained, upon ſurety given to perſew the action. *Terms of law, verbo Repleuin.*

Returnum aueriarum, is a writ Iudiciall, graunted to one impleaded for taking the cattell of another, and unjuſt deteining of them *contra vadum & plegios*, and appearing vpon ſummons is diſmiſſed without day, by reaſon that the plaintife maketh de-

fault, and it lyeth for the returne of the cattell vnto the Defendant, whereby he was ſummoned, or which were taken for the ſecurity of his apparence vpon the ſummons. *Register Iudiciall, fol. 4. a.*

Returnum irreplegiabile, is a writ iudiciall ſent out of the common ples to the Shyreue, for the ſmall reſtitution or returne of cattell to the owner, unjuſtly taken by another as dammage ſeiſant, and ſo found by the Iury before Juſtices of Aſſiſe in the County. For which ſee the *Register Iudiciall fol. 27. a. b.*

Rene, alias Grene (Praefectus) is made of *Gerefa* the Saxon word for a gouerner. *Lamb: explica: of Saxon words, verbo Praefectus*, and that by reſecting the firſt ſyllable, which (he ſaith) among the Saxons is vſuall. It ſignifieth in our common law, the Bayliſſe of a Fraunchis or maner, and eſpecially in the Weſt parts. Of this you may ſee *Kitchin. fol. 43.* See *Greue*. See *Shyreue*. See alſo of this word *M. Verſtigan* in his reſtitution of decayed intelligence. *cap. 10.* ſpeaking much to the ſame effect.

Revels, ſeemeth to be deriued from the French word (*Reneiller. i. excitari, vel expegeſieri*) It ſignifieth with us ſports of daunſing, masking, comedies, tragedies, and ſuch like uſed in

the Kings house, the houses of court or of other great personages. The reason whereof is, because they are most vsed by night, when otherwise men commonly sleepe, and be at rest. In the Kings house there is an officer called the Master of these Reuils, who hath the ordering, and dispositions of these pastimes in the court.

Renewme, is a French word, signifying as much as *Reditio*, *Reuersio*, *Reditus*. It signifieth properly the yearely rent that groweth to enery man from his lands and possessions.

Reuerſion (*Reuersio*) signifieth in the common lawe, a possibility referued to a mans selfe and his heires, to haue againe lands or tenements made ouer conditionally unto others, upon the defect or fayling of such condition. The difference betweene a Remainder, and a Reuerſion is, that a Remainder is generall, and may beto any man but to him that graunteth, or conueieth the land, &c. for terme of life onely or otherwise: a Reuerſion is to him selfe from whome the conueiance of the land, &c. proceeded, and commonly perpetuall, as to his heires also, *Littleton*, fol. 112. in fine. See *Cooke lib. 2. Sir. Hugh Choluelis case*, fol. 51. a. And yet a Reuerſion is sometime confoun-

ded with a remainder. *Cooke li. 2. Tookers case*, fol. 67. b. *Plowden, casu Hille*, fol. 170. b. What this word Reuerſion in a deede doth carie; See *Littleton lib. 2. cap. 12.*

Revocation (*Revocatio*) is the calling backe of a thing graunted. Of these you have diuers in the *Register originall*, as *Renocationem brevis de audiendo & terminando*, fol. 124. *Revocationem praesentationis*, fol. 304 & 305. *Revocationem protectionis*, fol. 23. *Revocationem specialium Iusticiariorum quia*, &c fol. 205.

Reviving, is a word metaphorically applied to rents and actions, and signifieth a renewing of them, after they be extinguished: no lesse then if a man, or other liuing creature should be dead, and restored to life. See diuers examples in *Brooke titulo. Revivings of rents, actions*, &c fol. 223.

Rewardum. See *Regard*.

Rewege anno. 43. Elizab. cap. 10.

Rie, is a Saxon word signifying as much as *Regnum*, in Latine. *Camd. Britan. pag. 346.*

Riens passe per le fait, is a forme of an exception taken in some cases to an action. See *Brooke titulo Estaunger al fait or Record*.

Riens dans le gard, was a challenge to a Iurie, or Enquest with-

in London. for that foure sufficient men of livelyhood to the yearly value of fortie shillings above all charges, within the same City, and dwelling and having within the same ward, weare not impanelled therein. But it is. abrogated by the statute. anno 7. H. 7. cap. 4.

Rier countie (*Retrocomitatus*) seemeth to come of the French (*Arriere. i. posterior*) and in the statute. anno 2. Ed. 3. cap. 5. is opposite to the open countie And by comparifon of that statute with *Westm. 2. cap. 38.* it appeareth to be some publike place, which the Shyreue appointeth for the receipt of the kings money after the ende of his Countie. *Fleta* saith that it is *dies crastinus post comitatum. li. 2. cap. 67. §. Quia Iusticiarii.*

Right, Rectum. See Recto.

Ridings, be the names of the parts or diuifions of *Yorke shire*, being three in number. viz. *West riding, East riding, and North riding. Camd. Britan. pag. 530.* This word is mentioned in the statute, anno 22. H. 8. cap. 5. & 23. H. 8. cap. 18. and *M. West. parte 2 symbol. titulo Inditements* saith, that in Inditements within that Countie, it is requisite that the towne, and the Riding be expressed. *sect. 70. Q.*

Right in the Court. anno 6. R. 2. stat. 1. cap. 12. See *Rectus in*

Curia.

Ringhead, anno 43. Eliz. 16. cap. 10.

Riot (*Riotum*) commeth of the French (*Rioter. i. rixari.*) It signifieth in our common lawe, the forcible doing of an vnlawfull act, by three or more persons assembled together for that purpose. *Westm. parte. 2. symbol. titulo, Inditements, sect. 65. P.* The differences and agreements betweene a Riot, Rout, and unlawfull assembly. See in *M. Lamb. Eirenarcha. lib. 2. cap. 5. &c.* See the statute. 1. M. 1. ca. 12. & *Kitchin. fol. 19.* who giveth these examples of Riots: the breach of inclosures, or banks or conduits, parks, pownds, houses, barnes, the burning of stacks of corne. *M. Lamberd. ubi supra*, vseth these examples: to beate a man, to enter upon a possession forcibly, See *Route. and unlawfull assembly.* See also *Cromptons Iustice of peace divers cases of Riots, &c. fol. 53.* See *Tribings.*

Ripiers (*Riparii*) be those that vse to bring fish from the sea coast to the inner parts of the land. *Camd. Britan. pag. 234.* It is a word made of the Latine (*Ripa*).

Rise (*oriza*) is a kinde of corne growing in *Spaine, Asia, and India*, with the which both good foodes and medicines be

made, whereof if you desire farther knowledge, reade *Gerards herball. lib. 1. cap. 52.* This is mentioned among merchandize to be garbled in the statute. *anno 1. Iaco. cap. 19.*

Roag (*Rogus*) seemeth to come of the French (*Rogu. i. arrogans*) It signifieth with us an idle sturdie beggar, that wandering from place to place without passport, after he hath beene by Iustices bestowed upon some certaine place of abode, or offered to be bestowed, is condemned to be so called, who for the first offence, is called a Roag of the first degree, and punished by whipping, and boring through the grissell of the right eare with a hot yron an inch in compas: and for the second offence, is called a Roag of the second degree, and put to death as a felon, if he be above 18. yeares old. See the statute, *anno 14. Elizab. cap. 5. & 18. eiusdem, cap. 3. & anno 36. cap. 17.* If you will know who be Rogues, and to be punished as Rogues by lawe, Reade *Lamberds Eirenarcha. lib. 4. cap. 4.* See *Rout.*

Robberie (*Robaria*) commeth of the French (*Robbe. i. vestis*) and in our common lawe, a felonious taking away of another mans goods from his person or presence, against his will, putting him in feare, and of

purpose to steale the same good^s *West. parte 2. symbol. titulo Inditments, sect. 60.* This is sometime called violent theft. *Idem, eodem.* which is felonie for two pence. *Kitchin fol. 26. and 22. lib. Assis. 39.* *Robaria* is a word vsed also in other nations, as appeareth by the annotations upon *Mathaus de Afflictis, descis. 82. num. 6. pag. 122.* See *Skene verbo Reis. libro de verbo. significat.* See *Crompt. Iustice of peace. f. 30. b.*

Robertsmen, anno 5. Ed. 3. cap. 14. & anno 7. R. 2. cap. 5. M. Lamb. interpreteth them to be mighty theeves. *Eirenarch. li. 2. cap. 6. pag. 190.*

Rodknights, aliàs Radknights, are certaine seruitours, which hould their lands by serving their Lord on horsebacke. *Bratton lib. 2. cap. 36 nu. 6.* faith of them, *debent equitare cum Domino suo de manerio in manerium. vel cum Domini uxore. Fleta lib. 3. ca. 14. §. Continetur.*

Rodde (*Pertica*) is otherwise called a pearche, and is a measure of 16. foote and an halfe long, and in *Stafford Shire* 20 foote, to measure land with. See *Pearch.*

Rosetyle, aliàs Creast tyle, is that tyle which is made to lay upon the rudge of the house. *anno 17. Ed. 4. cap. 4.*

Rogation weeke (*diesrogationum*) is a time well knowne to all,

all, being otherwise called Gang weeke. The reason why it is so termed, is because of the especiall devotion of Prayer and Fasting, then enjoyned by the Church to all men, for a preparatiue to the joyful remembrance of Christs glorious Ascension, and the Descension of the holy Ghost, in the forme of cloven Tongues shortly after. And in that respect the solemnization of carnall Matrimony is forbidden from the first day of the saide weeke, untill Trinity Sunday. See *Advent*,

Roode of Land (*Roda terra*) is a certaine quantitie of Land being the fourth part of an Acre. *anno 5. Eliz. cap. 5.* See *Perch.*

Roll, alias, Roule (*Rotulum*) commeth of the French (*rouler. i. volvere, pervolvere, rotare*) whence also is the French (*Roule ou Roule. i. volumen, catalogus, codex*) It signifieth with us a she-dule of Paper, or Parchment turned or wound up with the hand to the fashion of a Pipe. So is it vsed in *Stamnsf. ples of the Crowne. fol. 11.* The Chequer Roll of the Kings house, out of the Statute *anno. 3. H. 7. cap. 13.* which signifieth nothing but the catalogue wherein the names of the Kings houshold Servants are set downe. And *anno. 5. Rich. 2. cap. 14 stat. prim.* there is mention made of the great Rolle of

the Exchequer which seemeth otherwise to be called the Pipe. The Roules is also a place destinated, by *Edward. 3.* to the keeping of the Rolles, or Records of the Chauncery situate betweene the two Temples in *London, Camden. Britan. pag. 321.* the Master whereof is the second man in Chauncery, and in the absence of the Lord Chauncelor, or Keeper, sitteth as Iudge, being commonly called the Master of the Rolles. See *Master of the Rolls.*

Romescot, is compounded of *Rome*, and *Scot*, as you would say, the tribute due to Rome: it is called by *Mathaus Westmonasteriensis, Consuetudo Apostolica, à qua neque Rex, neque Archiepiscopus, vel Episcopus, Abbas, vel Prior, aut quilibet in regno immunitus erat*: and was first graunted by *Offa* a Saxon King. *Camden. Britan. pag. 306.* See *Peter pence: and Roger Hoveden parte poster. suorum annalium. fol. 344. a. in Henr. secundo.*

Roundlet, is a certaine measure of Wine, Oyle, &c. containing 18. gallons and a halfe, *anno 1. R. 3 cap. 13.*

Ronte (*roua*) is a French word signifying a company, or flocke: as (*une grande ronte de gents on de cerfs. i. grex hominum, longa servorum series*) It signifieth in our Common Law, an as-

sembly of three persons or more, going on about forcibly to commit an unlawfull act, but yet doe it not, *Westm: parte 2. symb. titulo Indilments. sect. 65. o. M. Lamberd* thus saith of it: A Rout is the same, which the *Germans* yet call *Rot*, meaning a band or great company of men gathered together, and going about to execute, or executing indeede, any Riot or unlawfull act: and (saith more) it is said properly of the multitude that assemblen themselves in such disorderly sort, for their common quarrels. As if the inhabitants of a Towneshipp doe assemble to pull downe a hedge, or pale, to have their common, where they ought to haue none, or to beat a man that hath done them some publicke offence or displeasure. But the Statute of 18. Ed. 3. stat. prim. cap. unico. which giveth Processe of outlawry against such as bring routs into the presence of the Iustices, or in affray of the people, and the Statute of 2. Richard. 2 cap. 6. that speaketh of riding in great routes to make entry into Lands, and to beate others, and to take their wiues, &c. doe seeme to understand it more largely. And it is a route, whether they put their purpose in execution or no: if so bee, that they doe goe, ride, or moue forward after their meeting. *Brooke titulo, Riot. 4. & 5. So*

(as it seemeth) a Rout should bee a speciall kind of unlawfull assembly: and a Riot the disorderly fact committed generally by any unlawfull assembly. Howsoever it bee, two things are common both to Riot, Rout, and unlawfull assembly: the one, that three persons at the least bee gathered together: for so it is commonly taken at this day, as I haue learned: the other, that they being together, doe breede disturbance of the peace, either by signification of speech, shew of Armour, turbulent gesture, or actuall and expresse violence: so that either the peaceable sort of men bee unquieted, and feared by the fact, or the lighter sort, and busie bodies emboldned by the example. Thus farre Master *Lamberd* in his *Eirenarcha, libro 2. cap. 5. &c.* where you may reade more worth the noting, though too long to bee coppied out. See *Riot*, and *Unlawfull Assembly*. *Kitchin* giveth the same definition of a Route, *fol. 20.*

Rowing of clothes. anno 27. H. 8. cap. 13.

Royall assent (regius assensus) is that approbation which the King giveth to a thing formerly done by others: as to the election of a Bishop by Deane and Chapter. Which given, then he sendeth an especiall Writ to some

person for the taking of his fealty. The forme of which Writ you may see in *Fitzherbert nat. br. fol. 170. C.* And also to a Bill passed by both the Houses of Parliament. *Cromptons Iurisd. folio 8.* which assent being once given, the Bill is endorsed with these words: *Le Roy veut*, i. It pleaseth the King. If he refuse to agree unto it, then thus: *Le Roy avisera*, i. the King will yet thinke of it. See *Parliament*.

Royalties (*Regalia vel regalitates*) be the rights of the King. *Inra Regis. Hotoman in verbis feudalibus, verbo. Regum Feudista.* And so are they understood of us likewise, who otherwise call them the Kings Prerogative. See *Prerogative*. And some of these be such as the King may graunt unto common persons, some so high, as may not bee separated from his owne Crowne *privativè*, as the Civilians terme it, though *cumulativè* hee may. See *Bracton lib. 2. cap. 5.* These bee in some sort expressed in the first of *Samuel, cap. 8.* but these generalities bee specified more at large by those Lawyers that write of this point. Among whom I especially commend *Matham de Afflictis* upon the Title of the *Fewds. Que sint regalia*, being the 33. title of the third Booke as some divide them, but according to others the 56. of

the second Booke: where bee named in the Text 25. Specialties of Royalties. See also *Hotomans Commentaries in lib. 2. Feudor. cap. 56.*

Rouge grosse. See *Herald*.

Rudge washed Kersey. i. made of fleece wooll washed onely on the sheepes backe. *anno 35. Eliz. cap. 10.*

S A

Sables. See *Furre*.

Sac (*Sacha vel Sacca*) is a Royalty or priviledge touching plee, and correction of trespasses of men within a Manor. *Rastal, titulo Exposition of words*: where he addeth this reason: because (saith he) *Sac* in English is (*enchefon*) in French: as to say, for *sick sack*, *pur quel enchefon* i. for what hurt. That which our Common Lawyers call (*enchefon*) the true French man termeth (*Achoise*, i. *occasionem*) as (*Achoise fort grande, occasio ampla*) or els may *enchefon* come of (*Encheoir*, i. *incidere*) which wee in English call an *accident*, or *incident*. But all this is farre enough from (*Sac*) and from the interpretation thereof, as it is a Libertie or Priviledge. *Bracton* hath the word, as *Stamford* noteth out of him, *pl. cor. lib. pri. cap. 23.* but neither of them both doe particularly interpret it. *Bractons words* be these, *lib. 3. tract.*

tract. 2. cap. 8. vel si sit aliquis qui de concessione Domini Regis talem habeat libertatem (sicut sock & sack, Tolnetum, Team, Infangthefe, & Huisfanghese) qui inventus fuerit seiscitus de aliquo latrocinio, sicut Hondhabende & Backberend, tales habent regalem potestatem: & unde qui tales libertates habent, habebunt prisonam suam de talibus, quia possunt tales in Curia sua judicare. Of the which matter hee speaketh also in lib. 2. cap. 24. nu. 2. & 3. and againe lib. 3. tract. 2. cap. 35. But in none of these places hee giveth any interpretation of the word. Saxon in his description of England defineth Sack to be a forfeiture, as doth Rastollubi supra. fol. 132 M. Camden in his Britan: pag. 415. speaking of Lincoln: hath these words: Eduardo Confessore regnante, erant (ex censuali libro loquor) 1070. mansiones hospitala, & duodecim Lageman habentes socam & sacam. To all these adde Bracton lib. 2. ca. 5. where he writeth thus. Sunt & alia res quasi sacra, qua personam Regis respiciunt, & aliquando transferrari non possunt, nisi iusticiariis Domini Regis, sicut visus Franciplegii, placita de vetito mannio, commendatio transgressionis Assisarum, Iudicium latronum, sicut de illis qui habent sock & sack & huiusmodi omnia, qua pertinent ad pacem, & per consequens ad Coronam. I am informed, that the word

(sack) in the Saxon tongue doth properly signifie so much as (cause) with the Latines: whence we in English have the word (sake) as (for whose sake.) M. Skene de verb. signif. verbo, Sacke, writeth thus. In some olde bookes it is called placium & emenda de transgressionem hominum in Curia nostra. In the Lawes of King Edward set forth by Master Lamberd. fol. 132. it is written, (Sacha) Sacha autem est, si quislibet aliquem nominatum de aliquo calumniatus fuerit, & ille negaverit, forisfactura probationis, vel negationis, (si evenierit) sua erit. Which may be called the Amercement payed by him who denyeth that thing, which is proved against him to be true, or affirmeth that thing, the contrary whereof is true. Thus farre M. Skene. Flota of this hath these words: Sake significat acquietantiam de secta ad Comitatum, & Hundredum. lib. 1. ca. 47. §. Sake. But by all those I find not any reason of the word, that is, why this liberty should be so called, and therefore I must leave it to better Antiquaries or Linguists. See Roger Hoveden parte poster. suorum annalium. fol. 345.

Sacchus cum brochia, seemeth to be a service of finding a Sacke and a broach to the King by vertue of a Tenure, for the use of his Armie. Bract. lib. 2. cap. 16. n. 6.

Sacke of Wool, (saccus lana) is

a quantitie of wooll, that containeth 26. Itone, and a stone, fourteene pounds, anno 14. Edm. 3. *stat. 1. cap. 21.* See *Sarplar.*

Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis, is a Writ or commission to one for the taking of an oath of the Kings Widowe, that shee shall not marry without the Kings licence. *Register original, fol. 298. a.*

Safe conduct. See *Saulf conduct.*

Salus, is a coyne of gold stamped by King Henry the sixth in France, which onely coine, with another of Blanes of eight pence a piece, was current in those places of Fraunce, where King Henry was obeyed. *Stowes Annals, pag. 589.*

Safe pledge (Salvus plegius) is a suretie given for a mans appearance against a day assigned, *Bracton lib. 4. cap. 2. nu. 2.* where it is also called *certus plegius.*

Sailing ware. anno prim. R. 3. cap. 8.

Sak. See *Sas.*

Sakeber, in *Britton cap. 15. & 29.* seemeth to bee hee that is robbed, or by theft deprived of his goods: with whom *Bracton* also agreeth, *lib. 3. tracta. 2. cap. 32. nu. 2.* in these words: *Furtum vero manifestum est, ubi latro deprehensus sit seiscitus de aliquo la-*

trocinio sc. Hondhabende, & Backberend, & insecutus fuerit per aliquem, cuius res illa fuerit, qui dicitur Sacaburthe, &c. or Sathaber, as *Stanford* calleth it, *pl. cor. lib. pri. cap. 21.* The interpretation of this word I finde not. Onely *M. Skene de verb. interpretatione. verbo. (Sacreborgh)* thinketh it should rather be written. *Sickerborgh*, of (*Sicker. i. Securus*) and (*Borgh. i. plegius*) signifying a sure cautioner, or surety which one findeth to another for theft, or slaughter: whereof he offereth to accuse him iudicially. For in this case it behoveth the persiewer to oblige, or binde himselfe into the hands of the officer, or before a Iudge competent with *Sicker Borgh*, or sure caution, that he will persiew in forme of Lawe. And by this meanes it may be, that the accuser was wont with us to bee called *Sakbere* of a circumstance, because in this case he was surely bound to persiew. *Sycker* is also an old english word, signifying as much as sure, secure, or certaine, and see *Borowe.*

Salet, is a headpeece, anno 4. & 5. *Phil. & Mar.* it seemeth to come from the French (*Salut. i. Salus*).

Salmonseuse, seemeth to bee the young fry of *Salmon*, quasi *salmon* issue. anno 13 *Rich. 3. stat. pri. cap. 19.*

Salva Guardia, is a securitie giuen by the King to a straunger, fearing the violence of some of his subjects, for seeking his right by course of lawe: the forme whereof see in the Register originall fol. 26. a. b.

Sanctuarie (*Sanctuarium*) is a place priuiledged by the prince, for the safegard of mens liues, that are offenders, being founded upon the lawe of mercie, and upon the great reuerence, honour, and devotion, which the Prince beareth to the place, whereunto he graunteth such a priuiledge. Of this you may read a sufficient treatise in *Stawnsf. pl. cor. lib. 2. cap. 38*. This seemeth to haue taken beginning from the Cities of refuge, which *Moses* appointed them to flie vnto for safegard of their liues, that had by casualty slaine a man. *Exodus, cap. 21*. In bastardly imitation whereof, first the *Athenians*, then *Romulus* erected such a place of immunity, which they, and he after them called *Axylum*. *Polidor: Virg: de inuentione rerum, li. 3. cap. 12*. The Emperours of Rome made the places of their owne statues or Images, a place of refuge, as appeareth. *Cod. lib. 1. titulo 15. De iis qui ad statuas confugiunt*: as also the Churches: *eodem, titulo 12. De iis qui ad ecclesias confugiunt, &c.* But among all other nations,

our auncient Kings of England seeme to haue attributed most to these Sanctuaries, permitting them to shelter such, as had committed both felonies, and treasons, so that within forty dayes they acknowledged their fault, and so submitted themselves to banishment: during which time, if any man expelled them, if he were lay, he was excommunicated, if a Clerke, he was made irregular. But after forty daies noe man might releeve them. *Stawnsf. ubi supra*. See of this the new booke of *Entries: verb. Sanctuary*: and *Flota: lib. 1. cap. 29*. And how by degrees they haue beene taken away, you may read partly in him, and partly in the statutes. *26 Hen. 8. ca. 13. & anno 28. eiusdem, cap. 7. & anno 32. eiusdem, cap. 12. & anno 33. eiusdem, cap. 15. & anno pri: Ed. 6. cap. 12. & anno 2. eiusdem, cap. 2. & cap. 33. & anno 5. eiusdem, cap. 10*. See *Abiuration*.

Salario (*salarium*) is a recompence or consideration made to any man for his paines or industry bestowed upon another mans busines. So called, as *Pliny* saith, *qui tam necessarium quam sal homini*. The word you haue *anno 23. Ed. 3. ca. pri.*

Salmon pipe, *anno 25. H. 8. cap 7*. is an engiue to catch Salmones and such like fish,

Sandall, anno 2. Rich. 2. cap. 1. is a merchandize brought into England. And it seemeth to be a kinde of wood brought out of *India*. For (*Sandal*) in French so signifieth, and in Latine it is called *Santalum*.

Sarkling time, or time of sarkling. Seemeth to be all one with hey feele. Or the time when the countrey man weedeth his corne. And it proceedeth from the Latine *sarculore*, to rake or weede. Or from the French (*Sarcler*) which hath all one signification.

Sarpler, (sarplera lana) is a quantity of Wooll. This in Scotland is called Serplathe and containeth fourescore stone, for the Lords of the Councell in anno 1527. decreed foure Serpliates of packed Wolle to containe sixtene score stone of wolle, by the trafique of Merchants now used. The Merchants use to fraught for their goods to *Flanders*, by the Sacke to *Fraunce*, *Spaine*, and *England*, by the Tunne, and to *Danken*, and the Easterne Seas, by the Serpliath. *Skene de verborum significatione, verbo Serpliath*, with us England a load of Wooll (as I haue bene informed) consisteth of eighty Todde, each Todde consisting of two stone, and each stone of foureteene pound. And that a Sacke of Wooll is in

common account equall with a Load : and a Sarpler (otherwise called a pocket) is halfe a Sacke. Further that a packe of Wolle is a Horse load, which consisteth of seventene stone, two pounds. *Fleta lib. 2. cap. 12.* saith, that all our English measures are compounded of the peny sterling, which weigheth 32. Wheate cornes of the middle sort, and that two of these pence make an ounce, and twelue ounces a pound in weight, or twenty shillings in number, and that eight pound of Wheat maketh a gallon, or a gallon as we now call it, and eight gallons a bushell, and eight bushels a common quarter. Also that fiftene ounces of the quantitie aforesaid doe make a Merchants pound. And that 12. such pound and a halfe, make a stone, and that foureteene stone make a waigh, and that two waighes or twenty eight stone, make a sacke of wolle, which ought to weigh a quarter of Wheate, and that 12. sackes make a Last. So that a waigh, and a Sarpler seemeth to be all one, but that the Sarpler is the case, and the weigh respecteth the quantitie of the wolle it selfe: And that a load and a sacke is all one.

Sannkesin, is a phrase used by *Britton cap. 119.* for the determination, or finall ende, of the lineall race, or descent of a kindred.

ded. It seemeth to come from the French (*Song. i. sanguis*) and *Finē. i. finitus.*)

Saner de default, is word for word, to excuse a default. This is properly, when a man having made default in court, commeth afterward and alleadgeth good cause, why he did it, as imprisonment at the same time, or such like. New booke of *Entries. verb. Saner de default.*

Sauſe conduict (*Salvus conductus*) is a security giuen by the Prince, under the broad seale to a straunger, for his quiet comming in and passing out of the Realme, touching which you may see the statutes. *anno 15. Hen. 6. cap. 3. & anno 18. eiusdem. cap. 18 & anno 28. Hen. 8. cap. pri.* The forme of this see in the *Register originall. fol. 25.*

Stawnsford, was a man very learned in the common lawes of the land, wherein he wrote 2. bookes, one termed the plects of the Crowne, the other the Princes prerogatiue. He flourished in the daies of *Ed.* the sixth, and of *Queene Mary*, being in *Queene Maries* daies a Iudge, and knighted.

Scandalum Magnatum, is the especiall name of a wrong done to any high personage of the land, as Prelates, Dukes, Earles, Barons, and other Nobles: and also of the Chancellor, Treasurer,

Clerk of the priuy seale, steward of the kings house, Iustice, of the one bench or of the other, and other great officers of the realm, by false news: or horrible and false messages, whereby debates and discords betwixt them and the commons, or any scandall to their persons might arise. *anno 2. R. 2 cap 5.*

Scauage, otherwise called *Shewage* is a kind of tolle, or custome exacted by Maiors, Shyreuees, and Balifs of Cities, and Borough townes, of Merchants for wares shewed to be soulede within their precincts. which is forbidden by the statute. *anno 19. Hen. 7. cap. 8.* It cometh of the Saxon word (*Sceawe*) to behold or view, or to shewe; whence is the word (*Sceaw-flowe*) a theater or shew place, a beholding place. *M. Verstegan in his restitution of decayed intelligences litera S.*

Scire facias, is a writ Iudiciall, most commonly to call a man to shew cause unto the Court, whence it is sent, why execution of a Iudgement passed, should not be made. This writ is not graunted before a yeare and a day be passed after the Iudgement giuen, *ould nat. br. fol. 1.* *Scire facias* vpon a fine, lieth after a yeare and a day from the fine levied. Otherwise it is all one with the writ *Habe*

habere facias scisinam. *West. part. 2. simb. in lo fines, sect. 137.* See *an. 25. Edwardi 3. Sta. 5. cap. 2. v. an. 39. Elizabeth cap. 7.* The Register originall and Iudiciall also in the table sheweth many other diuersities of this writ, which reade. See also the newe booke of *Entries. verb. Scire facias.*

Scyra. Camd. Britan. pag. 103. & 544. See *Shyre.*

Scot, seemeth to come of the French (*escot. i. symbolum*) *Rastall* saith it is a certaine custome, or common tallage made to the use of the Shyreue, or his Baylives. *Saxon in his description of England. cap. 11.* saith thus: *Scot* a gadering to worke of Bailes: what he meaneth God knoweth, I thinke the place is corruptly printed. *Scot* (saith *M. Camden* out of *Mathewe of Westm.*) *illud dicitur, quod ex diuersis rebus in unum aceruum aggregatur.* In the lawes of *William the Conquerour*, set forth by *M. Lamberd: fol. 125.* you haue these words, *Et omnis Francigena, qui tempore Edwardi propinqui nostri fuit in Anglia, particeps consuetudinum Anglorum, quod dicunt anelote; & ane scote persoluantur secundum legem Anglorum.*

Scot and *Lot*, anno 33. *H. 8. ca. 19.* signifieth a customary contribution laid vpon all subjects after their hability. *Roger Hoveden* writeth it *Anlote & Anscot*

te, in principio Henrici secundi.

Scotall (*Scotalla*) is a word vsed in the Charter of the Forest. *c. 7.* in these words, as *Pupilla oculi* hath them, *parte 5. cap. 22. Nullus Forestarius vel Bedellus, faciat Scotallas, vel garbas colligat, vel aliquam collectionem faciat, &c. M. Manwood parte pri. of his Forest lawes. pag. 216.* thus defineth it. A *Scotall* is where any officer of the Forest doth keepe an ale house within the Forest, by colour of his office, causing men to come to his house, and there to spend their money, for feare of hauing displeasure. It seemeth to be compounded of *Scot* and *Ale*.

Scutagio habendo, is a writ that lieth for the King or other Lord against the Tenent, that houldeth by knights seruice, (wherein homage, fealtie, and escuage be contained) being to make a voiage to waire against the Scots, or French men. For in those cases, this writ issueth out to all such tenents to serue by themselves, or a sufficient man in their place, or else to pay, &c. See *Fitzh. nat. br. fol. 83.* It is vsed in the Register originall, for him to reconer escuage of others, that hath either by seruice or fine performed his owne to the King. *fo. 88 a.*

Sealer (*Sigillator*) is an officer in Chauncerie, whose dutie is to

scale the Writs and Instruments there made.

Seane fish, anno 1. Iacob. ses. 1. ca. 25. Seane fish, ibidem, seemeth to be that fish which is taken with a very great and long net called a seane.

Second deliverance (Secunda deliberatione) is a Writ that lyeth for him who after a returne of Catel replevied addudged to him that distreined them, by reason of a default in the party that replevied, for the repleauing of the same Cattell againe, upon securitie put in for the redelivery of them, if in case the distresse bee justified. New Booke of Entries *verbo, Replevin in second deliverance. fol. 522. col. 2. v. Dyer fol. 41. num. 4. 5.*

Secla ad Curiam, is a writ that lieth against him, who refuseth to performe his suit either to the Connty, or Court Baron. *Fitzb. nat. br. fol. 158.*

Secla facienda per illum qui habet eniciam partem, is a Writ to compell the Heire that hath the elders part of the coheires, to performe service for all the Coparceners, *Regist. orig. fol. 177. a.*

Secla molendini, is a Writ lying against him, that hath used to grind at the Mill of *B.* and after goeth to another Mill with his corne. *Register original. fol. 153. Fitz. nat. brev. 122.* But it seemeth by him, that this writ

lyeth especially for the Lord against his franke Tenents, who hold of him by making suite to his Mill, *eodem.* See the new book of Entries. *verbo Secla ad molendinum.* By likelihood this service is also in France. For *Baldunus ad titulam de servitutibus prediorum. in Institut.* hath these words: *Bannalis mola nova & barbara servitutis species est, qua hodie passim rustici coguntur una mola, quam bannalem vocamus, unoque furno uti ad questum Doasini, qui fortasse præest jurisdictioni ejus pagi.*

Seclam proferre, est testimonium legalium hominum qui contractui inter eos habito, interfuerint presentes producere. *Fleta lib. 2. cap. 63 §. Nullus.* And *secla* is used for a witnesse, *Idem. lib. 4. cap. 16 §. final. Habes tamen seclam unam vel plures, &c.*

Secla ad Iusticiam faciendam, is a service due for a mans fee to be performed, being by his fee bound therunto. *Bracton. lib. 2. cap. 16. num. 6.*

Secla unica tantum facienda pro pluribus hereditatibus, is a Writ that lyeth for that Heire that is distreined by the Lord to more suits then one, in respect of the Land of divers Heires descended unto him. *Register original. folio 177. a.*

Seclis non faciendis, is a Writ, that lyeth for one in wardship to

to be deliuered of all suites of Court during his wardship, *Register origin. fol. 173. b.* See other vse of this writ, *eodem. fol. 174.* touching women that for their dower ought not to performe suite of Court.

Secunda superoneratione pasturae, is a writ that lyeth, where measurement of pasture hath bene made, and he that first furcharged the common, doth againe furcharge it, the measurement notwithstanding. *Register origin. fol. 157. old nat. br. fol. 73.*

Secundarie, (*secundarius*) is the name of an Officer next unto the chiefe Officer: as the Secundarie of the fine Office: the Secundarie of the Counter: which is (as I take it) next to the Shereue in London in each of the two Counters. Secundarie of the office of the priuie seale. *anno 1. Edw. 4. cap. 1.* Secundaries of the Pipetwo: Secundarie to the Remembrancers, two, which be Officers in the Exchequer. *Camden. pag. 113.*

Securitatē inueniendi, quod se non dinertat ad partes externas sine licentia Regis, is a writ that lyeth for the King, against any of his subjects, to stay them from going out of his kingdome. The ground whereof is this, that euery man is bound to serue and defend the Common wealth, as

the King shall thinke meet. *Fitznat. br. fol. 85.*

Securitate pacis, is a writ that lyeth for one, who is threatened death or daunger, against him that threateneth, taken out of the Chauncerie to the Shyreue: whereof the forme and farder vse you may see in the *Register origin. fol. 88. b.* and *Fitzh. nat. br. fol. 79.*

Se defendendo, is a plee for him that is charged with the death of another, saying that he was driuen unto that which he did, in his owne defence, the other so assaulting him, that if he had not done as he did, he must haue bene in perill of his owne life. Which daunger ought to be so great, as that it appeare ineuitable. As *Stamford* saith in his pleges of the Crowne. *lib. 1. cap. 7.* And if he doe iustifie it to be done in his owne defence, yet is he driven to procure his pardon of course from the Lord Chancellor, and forfeiteth his goods to the King. As the said authour saith in the same place.

Seignior (*Dominus*) is borrowed of the French (*seigneur*) It signifieth in the generall signification, as much as Lord: but particularly it is used for the Lord of the fee, or of a maner, euen as (*Dominus*) or (*senior*) among the Feudists, is he, who graunteth a fee or benefite out of his land

to another. And the reason is, (as *Hotoman* saith) because having graunted the use and profite of the land to another: yet the proprietie, i. (*Dominium*) he still retaineth in himselfe. See *Hotoman in verbis feudal. verbo Dominus, & Senior*. Seignior in grosse, seemeth to be he that is Lord, but of no maner, and therefore can keepe no court. *Fitz. nat. br. fol. 3. b.* See *Signorie*.

Seignourage. anno 9. H. 5. stat. 2. cap. 1. seemeth to be a regalitie or prerogative of the king, whereby he challengeth allowance of gold and siluer brought in the masse to his Exchange, for coyne.

Seignorie (Dominium) is borrowed of the French (*seigneurie. i. ditio, dominatus, imperium, principatus, potentatus.*) It signifieth peculiarly with vs, a Maner, or Lordship. *Seignorie de foke mans. Kitchin fol. 80.* Seignorie in grosse, seemeth to be the title of him that is not Lord by meanes of any maner, but immediatly in his owne person: as *Tenure in capite*, whereby one holdeth of the King, as of his Crowne, is *seignorie in grosse*: because it is held of the king for the time being, and not of the King, as of any honour, maner, &c. *Kitchin, fol. 206.* See *Seignior*.

Seisin (seisina) is borrowed of

the French (*seisine. i. possessio*), and so it signifieth in our common lawe: and to *seise*, is to take possession. *Primier seisin (prima seisinna)* is the first possession. See *Primier seisin*, of the French word (*seisir*) is made a Latine (*seisire*), used by the Canonists, *cap. Clericis. §. Nos igitur non semel de immunitate Ecclesie, num. 6.* as also the Ciilians. *Guido. Pap. singula. 865. Seisire est etiam possessionem tradere. Tiraquellus in Tractatu. Le mort saisit le vis. pag. 53. num. 3.* *Seisin* with our common Lawyers, is two fold: *seisin* in fact, and *seisin* in lawe. *Perkins Dower. 369. 370.* *Seisin* in fact is, when a corporall possession is taken: *seisin* in lawe, is when something is done, which the lawe accompteth a *seisin*, as an Inrolment. *Seisin* in lawe, is as much as a right to lands and tenements, though the owner be by wrong disseised of them. *Perkins Tenent per le courtseie. 457. 478.* And it seemeth by *Ingham*, that he who hath had an houres possession quietly taken, hath *seisin de droit, & de claime*, whereof no man may disseise him by his owne force or subtiltie, but must be driuen to his action. *§. Bref de nouvel disseisin. Sir Edward Cooke li. 4.* calleth it *seisin in lawe*, or *seisin actuell. fol. 9. a.* The Ciilians call the one *civilem possessionem*, the other *naturalem*.

*Sesina habenda quia Rex habu-
it annum, diem, & vastum*, is a
Writ that lyeth for delivery of
seisin to the Lord, of his Land, or
Tenements that formerly was
convicted of Felony, after the
King in the right of his Preroga-
tive hath had the yeare, day, and
waist. *Reg. orig. fol. 165. a.*

Selion (*selto*) is borrowed of
the French (*sello .i. terra clata in-
ter duos sulcos* in Latine (*Porca*)
in English a Ridge, or Land. It
signifieth even so with us also:
and is of no certaine quantity,
but sometime containeth an Acre,
sometime halfe an Acre, some-
time more, and sometime lesse.
*West. parte 2. symbol. titulo Re-
covery. sect. 3.* Therefore *Crum-
pton* in his Iurisdiction: *fol. 221.*
saith that a selion of Land cannot
bee in demaund, because it is a
thing uncertaine.

Seneschall (*senescallus*) is a
French word, but borrowed
from Germany, being as *Tilius*
saith) compounded of *Schal .i.*
seruus, and *officialis*, and *Gefnid.*
i. familia) wee English it a Ste-
ward. As the High Sen shall, or
Steward of England: *pl. cor. fol.*
152. High Seneschall or Steward,
and South Seneschall, or Vnderste-
ward. *Kitchin. fol. 83.* is under-
stood for a steward, or vnderste-
ward of Courts. *Seneschal de l'hô-
stel de Roy*, Steward of the Kings
hoshold. *Cromptons Iurisdiction.*

folio 102.

*Senescallo & Mareshallo quod
non teneant placita de libero tene-
mento, &c.* is a Writ directed to
the Steward or Marshall of Eng-
land, inhibiting them to take
cognizance of any action in their
Court, that concerneth either
Freehold, Debt, or Covenant.
Register originall. folio 185. a.
191. b.

Senie, alias, *Sene*, (*sena*) is a
leafe of a medicinable herbe, that
bringeth forth stalkes of a cu-
bite high, purging Phlegmaticke
Cholericke, and also Melancho-
licke humours, without great
violence. The farther use where-
of you may reade in *Gerrards
Herbal. lib. 3. cap. 8.* This is
mentioned among other Drugs
and spices to bee garbled, *anno 1.*
Iacob. cap. 19.

Septuagesima, is a Sunday cer-
taine, and alwaies the third Sab-
bath before Shrouesunday, from
the which untill the Octaves af-
ter Easter, the solemnizing of
marriage is by the Canon Lawes
forbidden. The reason whereof
is given, for that all this time
untill Easter, is a time of moun-
ning for the fall of *Adam*, and
for the miserie of man thereof
insuing. And Easter with the O-
ctaves thereof is a time of Christi
glorification, and so of ours also
in him, for his, and by him our
conquest ouer death and sinne.

And that therefore all carnall affection ought, during that space, to be wholly mortified in us. See *Quinquagesima*, see *Advent*, see *Rogation weeke*.

Sequatur sub suo periculo, is a Writ, that lyeth, where a summons *ad warrantizandum* is awarded, and the Sheriffe returneth, that hee hath nothing, whereby hee may be summoned. For then goeth out an (*Alias*) and (*Pluries*.) And if he come not at the (*Pluries*) then shall goe out this Writ. *Old nat. brev. fol. 163.*

Sequestration (sequestratio) is a separating of a thing in controversy from the possession of both those that contend for it. And it is double: voluntary, or necessary. Voluntary, is that which is used by the consent of each partie. Necessary is that, which the Iudge of his authority doth, whether the parties will or not. It is used also for the act of the ordinary disposing of office, the goods and chattels of one deceased, whose estate no man will meddle with. *Dyer. fol. 232. num. 5. & fol. 256. num. 8. & fol. 160. num. 42. & fol. 271 num. 26.* as also in the gathering of the fruits of a Benefice voided, to the use of the next Incumbent. *anno 28 H. 8. cap. 11. Fortescue, cap. 50.* and in divers other cases.

Sequestro habendo, is a writ iudiciall for the dissolving of a sequestration made by the Bishop, at the Kings commandement of the fruits of a Benefice, thereby to compell the Parson to appeare at the suite of another: for the Parson upon his appearance may have this writ, for the release of the sequestration. *Register. Iudicial. fol. 36. a.*

Sergeants (serviens) commeth of the French (*sergeant. i. satelles, accensus*) a man of the Guard, a kind of Souldier, so called, because he was *sapè accitus ad res necessarias in exercitu peragendas.* *Calepin. M. Skene de verb. signif. verb. Serjant*, hath these words: Sergeant commeth from *Serger* *quæ est vox composita de (Serger) quod est, includere, & gent. quod pro gente, populo vel plebe usurpatur. Itaque Serjandus dicitur, qui iussu magistratus, quemlibet de populo reum criminis in carcerem conjici, seu includit.* This word Sergeant is diversly used in our Law, and applied to sundry offices and callings. First, a Sergeant at Law, (or of the Coyle) is the highest degree taken in that profession, as a Doctor is in the civill Law. And to these, as most best learned, and best experienced of all others, is there one Court severd, to plead by themselves: (and that is the Court of Common-pleas) where the Common

lawe of *England* is most strictly obserued. These are made by the Kings *mandat*, or writ, directed unto them, commaunding them upon a great penaltie, to take upon them that degree by a day certaine therein assigned. *Dyer fol. 72. num. 1. see Counte.* And of these one is the Kings Sergeant, being commonly chosen by the King out of the rest, in respect of his great learning, to pleade for him in all his causes: as namely, in causes of treason. *pl. cor. lib. 3. cap. prim.* And of these there may be more if it so please the King. This is called in other Kingdomes, *Advocatus Regis.* *Cassan. de consuet. Burgund. pag. 850.* With what solemnitie these Sergeants be created, reade *Fortescue, cap. 50.* This word Sergeant seemeth to be used in *Britton* for an Officer belonging to the Countie: who, in his first chapter speaking of Appales made before the Coroner, hath these words in effect: And then let the Coroner cause his appeale to be entred, and the names of his sureties. And afterward let commaundement be given to the Sergeant of the countie, where the felonie was committed, that he have the bodie of the persons appealed at the next Countie. And it is probable, that this officer was all one with him, whom *Bra-*

eton in his fifth booke *cap. 4. num. 2.* calleth *Servientem Hundredi*: of whom he hath these words: *Post probationem defalta, faciet serviens Hundredi incontinentisummonitionem, vel affidet partibus diem, si presentes sint, ad proximum Comitatum, &c.* This is like to be the same Officer, which in auncient time was called the Bayliffe of the Hundred, who (as is declared in *Bayliffe*) had the like authoritie in his Hundred, that the shyreue had in the Countie, though inferiour to him, and to be controlled by him, as appeareth by divers auncient presidents set downe by *Kitchen* in his tractat of Returnes in Court Hundred, Court Baron, &c. I read also in *Bracton lib. 3. tractat. 2. cap. 28.* Of the Kings Sergeant, who is like to be also an officer in the County, in these words: speaking of a woman ravished, and what shee ought to doe for the persuite of the Ravisher, & sic ire debet ad prapositum Hundredi, & ad servientem Domini Regis, & ad coronatores, & ad vicecomitem, et ad primum comitatum faciat appellum suum. And againe *eod. l. c. 32.* in these words: & si sine secta cognoverit se inde esse laironem coram vicecomite, vel coronatore, vel serviente Domini Regis, &c. And againe *lib. 5. tract. 3. cap. 4. num. 8.* in these words. *Quid si serviens Domini Regis dederit partibus diem*

ad Comisatum, &c. And by *Fleta* it seemeth, that this terme was generall to the Shyreue, Coroner, and Bayliffes of Counties, who in his sixth booke. cap. 3. §. 1. hath these words: *Cum quis- gatur senserit dominum suum vel curiam suam sibi de recto defecisse, tunc ostenso hoc vice comiti, statim precipiat ballivo Hundredi, vel itineranti, vel alteri seruienti Regis, quod assumptis sibi liberis, & legalibus hominibus de vicineto illo, ad curiam illius domini, si quem habuerit accedat, &c.* And to helpe this probability, I finde that the steward of a maner is termed *seruiens manerii*. *Coke Vol. 4. Copyhould cases. fol. 21. a.* Then is there a Sergeant at armes (*seruiens ad arma*) whose office is to attend the person of the King, anno 7 H. 7. cap. 3. to arrest traitours, or men of worth or reckoning, that doe, or are like to contemne messengers of ordinary condition for other causes, and to attend the Lord high Steward of England sitting in Iudgement vpon any Traytour, and such like: *pl: cor. lib. 3. cap. pri:* Of these by the statute anno 13. R. 2. cap. 6. there may not be above thirtie in the Realme. This sort is called *del espee*. In the customary of *Nor. cap. 5.* which read. There be also some two of these Sergeants of the Parliament, one for the upper, another for the lower

house, whose office seemeth to serue for the keeping of the doores, and the execution of such commandements, especially touching the apprehension of any offender, as either house shall thinke good to inioyne them. See *Cromptons Iurisdictiones*, fol. nono. See also *Vowels*, alias *Hookers* booke of the order of the Parla. There is one of these that belongeth to the Chauncery, who is also called a Sergeant of the Mace, as the rest may be, because they cary Maces by there office. He of the Chauncery attendeth the Lord Chaunceler, or Keeper in that court, for the meanes to call all men into that court, is either by this officer or by *sub pœna*. *West. pa. 2. sym. tit. Chauncery Sect. 17.* Then be there sergeants that be the chiefe officers in their seuerall functions within the Kings houshold, which be chiefe in their places, of which sort you may read many named in the statute anno 33. H. 8. cap. 12. There is also a more base kinde of sergeant of the Mace, whereof there is a troupe in the Ciry of London, and other townes corporate, that serue the Maior or other head officer, both for mesniall attendance, and matter of Justice. *Kitchin fol. 143.* And these are called *Seruientes ad elauam*. New booke of *Entries. ver. scire fa-*

cias: in Mainperners. fol. 538. c. 3.

Sergeantie (*Seriantia*) com-
meth of the French (*Sergeant.*
i. satellites) and signifieth in our
common law, as service due to
the King from his tenent holding
by such service. For this service
cannot be due to any *L.* from his
Tenent, but to the King onely.
And this is either grand, or petit,
as you shall find at large set down
in Chivalrie. Of this also you
may read *Bra. l. 2. c. 16. & c. 37. n.*
5. 4. & Brit. c. 66. n. 1. & 2. See *Ser-*
nice. *M. Skene de ver. signif.* calleth
this *Sergeanterie*, defining and di-
viding it as we doe in England.

Servientibus, are certaine writs
touching servants, and their Ma-
sters violating the statutes made
against their abuses, which see in
the *Regist. orig. fol. 189. & 190.*
& 191.

Service (*servitium*) though
it have a generall signification of
dutie toward them unto whome
we owe the performance of any
corporall labour, or function: yet
more especially in our common
lawe, it is used for that service,
which the tenent by reason of his
fee, oweth unto his Lord. And
so doth it signifie among the
Feudists also. For *Hotoman* thus
defineth it. *Servitium est munus*
obsequii clientelaris. verbo Ser-
vitium. De verbis feudal. or
rather declareth it so to be
defined. *lib. feud. 2. titulo 51. §.*

8. It is sometime called *servage*,
as *anno. i. R. 2. cap. 6.* This ser-
vice is either militarie, and no-
ble, commonly called Knights
service: or clownishe and base,
commonly called *soccage*, of
both which reade *Chivalry*, as al-
so *soccage*. and *Bracton lib. 2.*
cap. 16. Service is divided by
Britton into personall, and reall.
cap. 66. where he maketh wards,
mariages, homage, Relcises, and
such like, to be call services: per-
sonall, I imagine, may those be
called, that are to be performed
by the person of the Tenent, as
to follow his Lord into warre,
&c. The Civilians divide *munera*
in this sort, either in *personalia*,
or *patrimonialia*. Then *Bracton*
ubi supra. num. 7. distributeth
servitium in *intrinsecum*, & *ex-*
trinsecum aliis *forinsecum*. & *me-*
diu. *Servitium intrinsecum* is
that, which is due to the capitall
Lord of the maner, *Forinsecum* is
that which is due to the King,
and not to the capitall Lord, but
when he goeth in his owne per-
son to serve: or when he hath sa-
tisfied the king for all services
whatsoever. And againe in the
same place he saith, it is called
Forinsecum, quia fit, & capitur
foris, sive extra *servitium*, quod
fit *Domino capitali*. See *Forein*
service. Of this reade him *ubi*
supra, more at large, and *Fle-*
ta, lib. 2. cap. 14. §. Continetur.

Servitia quæ nec intrinseca nec forinseca sunt. *Bract.* handleth in the same chap. *nu.* 8. saying thus: *sunt etiam quedam consuetudines, quæ nec dicuntur intrinseca, nec forinseca: sed sunt quedam servitia concomitantia, sicut servitia regalia, & militaria, & etiam homagia: & ideo in chartis non sunt exprimenda. Quia si homagium præcesserit, & regale servitium, sequitur exinde quod ad capitalem Dominum pertinebit Relenium, & custodia, & maritagium: siue servitium sit militare, vel servitia propter exercitum, &c.* Here then Reliefe, Ward, and Mariage, be those seruices, which he calleth, *nec intrinseca, nec forinseca, sed concomitantia.* Service is also divided into frank service, and base, or villenous service: the one *Bracton*, calleth (*liberum servitium*) the other (*servitium villanum*) or (*villenagium*) *lib. 2. cap. 8. num. pri.* This *villenagium* is Soccage in base tenure, as to dung the Lords ground, to serue him so many daies in haruest, to plash his hedges, &c. or els copy hould. All other seruices seeme to be frank. Service consisteth some in seifance, some in render. *Perkins Reservations. 696.* Service seemeth also to be divided into continuall, otherwise annuall, and casuall, or accidentall. An example of the former is the seifin of rent, and of the other, seifin

of reliefe. *Sir Ed. Cookes reports. lib. 4. Beuils case. fol. 9. a.* See Copy hould: See Soccage. see *Ajde.*

Service secular. anno 1. Ed. 4. ca. 1. which may be contrary to spirituall, viz. the service diuine commanded to spirituall men by their founders.

Servitours of bills, seeme to be such seruants or messengers of the marishall belonging to the kings bench, as were sent abroad with bills, or writs to summon men to that court, being now more ordinarily called *Tipstafs.*

Servitiis acquietandis, is a writ Iudiciall, that lieth for one distreined for seruices by *Iohn*, which oweth and performeth to *Robert*, for the acquitall of such seruices. *Register Iudiciall, fol. 27. a. & 36. b.*

Sessions (Sessiones) signifieth in our common lawe a sitting of Iustices in court vpon their commission: as the sessions of *oyer*, and *terminer. pl. cor. fol. 67.* Quarter sessions, otherwise called generall sessions. *anno. 5. Elizabeth cap. 4.* or open sessions. *ibidem.* Opposite whereunto are especiall, otherwise called priue sessions, which are procured vpon some speciall occasion, for the more speedie expedition of Iustice in some cause. *Cromptons Iustice of peace. fol. 110.* what things

things bee inquirable in generall Sessions: see *Cromptons Iustice of Peace fol. 109.* Petit Sessions, or Statute Sessions, are kept by the high Constable of every Hundred, for the placing of Servants, *anno 5 Eliz. cap. 4. in. fine.*

Sessour, *anno 25. Ed. 3. cap. 6.* seemeth to signifie so much as assessing or rating of Wages at this day.

Set Clothes, *anno. 27. Henric. 8. cap. 13.*

Serwell, Valeriana, is a medicinall herbe, the nature and divers kinds whereof you have in *Gerards herbal. lib. 2. cap. 424.* The roote of this is mentioned among druggs to be garbled, *anno, 1. Iacob, cap. 19.*

Severance, is the singling of two or more, that joyne in one Writ, or are joynd in one Writ. For example, if two joyne in a Writ *de Libertate probanda*, and the one afterward bee nonsuite, here severance is permitted; so that, notwithstanding the nonsuit of the one, the other may severally proceed. *Fuzherbert, nat. brev. fol. 78. l. K.* Of this see *Brooke, titulo, Severance & Summons, fol. 238.* For it is harder to knowe in what cases severance is permitted, then what it is. There is also severance of the Tenants in an Assise, when as one or two, or more dissisors appeareth upon the Writ, and not

the other. *Newe Booke of Entries, fol. 81. col. 4.* and Severance in Attaints, *cod. fol. 95. col. 2.* And severance in debt, *verbo debt. fol. 220 col. 1.* see the said Booke, *verbo, Severance*

Severall taile, (*tallium separatum*) is that whereby land is given and entayled severally to two. For example, land is given to two men, and their wiues, and to the heires of their bodies begotten: the Donees haue joynt estate for their two liues, and yet they haue severall Inheritance: because the issue of the one shall have his moyety, and the issue of the other, the other moyetic, *Kutchin. ibid.*

Severall tenancie (*tenura separata*) is a Plee, or exception taken to a writ, that is laid against two as joynt, which are severall, *Brooke titulo, Severall tenancie, fol. 237.*

Sewantly women, *an. 35. Elizab. cap. 10.*

Sewar, hath two significations with us, one applyed to him that issueth or commeth in before the meat of the King, or other great personage, and placeth it upon the table: the other to such passages, or gutters as carry wyater into the sea or river, in Lawyres Latine called *Sewera*, *an. 6. H. 6. c. 5.* which is also used in common speech for commissioners authorised vnder the broad seale to see draines, and ditches,

ditches well kept, and maintained in the Marish and Fenne Countries, for the better conveyance of the water into the Sea, and the preserving of the grasse for feede of Catell. *stat. anno 6. H. 6. cap. 5.* It is probable to bring this word from the French (*issir*) or (*issue*) as if we should call them (*Issuers*) because they give issue or passage to the water, &c. And the Latine word (*succa*) sometime used in these commissions for these drains, is a competent reason of this conjecture: See *Fitzh. nat. brev. in Oyer and Terminer*. Yet I finde in an old French Booke containing the Officers of the King of Englands Court as it was Antiently governed, that hee whom in Court we now call *Sewer*, was called (*Affsour*) which may seeme to come from the French (*Affsour*) wherein his Office in setting downe the meate upon the Table is well expressed. And *Sewer* as it signifieth an officer, is by *Fleia* latined *Affessor*: li. 2. ca. 15. All which argueth that the descent of this word is from the French (*Affsour*) as signifying a disposing or placing of any thing, or (as we say in English) an assailing of any person toward the performance of a dutie.

Sexagesima. See *Septuagesima*.

Shanokes. See *Furze*.

Shares. See *Flotzon*.

Shewing, is to be quit of attachment in any court, and before whom soever in plaints shewed and not avowed. Newe exposition of law termes. *verbo*, *Shewing*. See *Scauage*.

Shipper. anno 1. Jac. sess. 1. ca. 33. is a Dutch word, signifying the Master of the ship.

Shire, (*Comitatus*, *Shira*) is a Saxon word, signifying *Satrapian*, of the verbe (*scyran*. 1. *pariri*.) *Lamb* in his explication of Saxon words. *verbo Centuria*. The word is in use so rife, that every child understandeth it. Who first thus divided this land into shires, appeareth by *M. Camdens Britan. pa. 102.* in these words. *Nec dum tamen florebat Heptarchia, Anglia ita in Comitatus diuisa, (sic enim vulgò vocant) sed postea, cum solus Aluredus rerum potiretur. Vt enim Germani maiores nostri teste Tacito, iura per pagos vicofq; reddebant, & centeni ex plebe comites ad rem administrandam adiungebantur. sic ille (ut Ingulsi Cronlandensis verbis utar) primus Angliam in Comitatus diuisit, quod indigena rapinas committerent exemplo & colore Danorum. Comitatus porro in Centurias. i. Hundreds, & Decimas. i. Tythings, distribuit fecit: praeceptiq; ut omnis indigena in aliqua esset Centuria, & Decima. Praefectos etiam pro-*

vinciarum, qui antea Vicedomini vocabantur, in duo officia divisit, viz Iudices, nunc Iusticiarios: & Vicecomites, qui adhuc idem nomen retinent. See the rest.

Shereene (*Vicecomes*) is compounded of these Saxon words, (*Scyre*. i. *satrapia*) and (*Reue*. i. *praefectus*) and accordingly hee is the chiefe Officer under the King of his Shire, or County. See *Ferne in Lacies Nobility*: pag. 12. *M. Camden*: pag. 104. Thus describeth his Office: *Singulis vero annis, nobilis aliquis ex incolis praeficitur, quem vicecomitem, quasi vicarium comitis, & nostrâ linguâ Shiref. i. Comitatus praepositum vocamus: qui etiam comitatus, vel provincia Quaster rectè dici potest. Ejus enim est publicas pecunias provinciae suae conquirere, multas irrogatas, vel pignoribus ablati colligere, & arario inferre, iudicibus praesto adesse, et eorum mandata exequi, duodecim viros cogere, qui in causis de facto cognoscunt, et ad Iudices referunt (Iudices enim apud nos, iuris solium, non facti sunt Iudices) condemnatos ad supplicium ducere, & in minoribus litibus cognoscere, in maioribus autem ius dicunt Iusticiarii, quos itinerantes ad Assisas vocant, qui quotannis hos Comitatus bis adeunt, ut de causis cognoscant, & de incaceratis sententiam ferant. Henricus secundus hos Itinerantes instituit, vel potius restituit. Ille (ut inquit Matham*

Parisiensis) consilio filii sui & Episcoporum constituit Iusticiarios per sex partes regni, in qualibet parte tres, qui iurarent quod cuilibet ius suum conservarent illasum. Of the antiquitie and authoritie of this Officer, reade *Sir Edward Cookes Reports lib. 4. Mittons case*. The manner of appointing these Sheriffes in *Henry* the sixth his daies, See in *Fortescue*, cap. 24. fol. 53. b. The name *Vicecomes* commeth from the Normans, as *Shyreene* commeth from the Saxons. For in the fifth Chapter of the Grand Customarie, you have (*Viconte*) which the Latine Interpreter turneth (*Vicecomitem*) whose Office you shall finde in that Chapter to bee very like unto ours. The forme of the Shyreenees oath see in the *Register Originall. folio 331. b.* Of this reade Master *Skene de verborum significat. verbo Shyreene*: where hee largely describeth the office of the Shyreene in *Scotlaad*, in a discourse worth the reading.

Shyreene weke of *Winchester* & of *Essex*. anno 21. R. 2. cap. 10. & 11.

Shire Clerke, seemeth to be the *Vnder Shyreene*. anno. 11. H. 7. ca. 15. It is used sometime for a Clerke in the County Court, deputy to the *Vnder Shereene*. See *Sir Edward Cookes 4. bookes of Reports in Mittons case*.

Shire mote, See *Turne*.

Shorling, and *Morling* seeme to bee words to distinguish Fels of sheepe: as if *Shorling* should signifie the Fels after the Fleeces bee shorne off the sheepes backe, and *Morling* the Fels fleane off after they bee killed or dye alone. *Anno 3. Ed. 4. cap. prim. & anno 4. ejusdem, cap. 3. & anno 12. ejusdem, cap. 5. & anno 14. ejusd. cap. 3.*

Shot, commeth of the Saxon word, *scate*, signifying *pecuniam aut vestigal*. *Lamberds* explication of Saxon words, *verbo Primitie*.

Skr of metall.

Sicut alás is a Writ sent out in the second place, whereas the first sped not. *Cooke libro quarto folio 55 b.* It is so called of these words expressed in it. For example. *Iacobus dei gratia, &c. vicecomiti Kant salutem: Præcipimus tibi (sicut aliàs præcepimus) quod non omittas propter aliquam libertatem in Balliva tua, quin eam ingrediaris, & capias. A. B. de C. in Comitatu tuo Labourer, &c.* as in the first *capias*. *Lamb.* in his tractat of Processes in the end of his *Eirenarcha*.

Sidemen, aliàs *Quest men*, be those that are yearly chosen according to the custome of every Parish, to assist the Churchwardens in the inquiry and presenting such offenders to the Ordinary, as are punishable in the

Court Christian.

Significavit, is a Writ, *de excommunicato capiendo*, which issueth out of the Chauncery upon a certificat given by an Ordinary of a man that standeth obstinately excommunicate by the space of fourty dayes, for the laying him up in prison without Bayle, or Main: rise, untill hee submit himselfe to the authority of the Church. And it is so called, because of the word (*significavit*) mentioned in the writ (*De excommunicato capiendo*) which have relation to the certificate, sent into the Chauncery by the Ecclesiasticall Iudge. There is also another writ in the *Register orig.* of this name, *fo: 7. a.* directed to the Iustices of the bench, willing them to stay any suite depending betweene such and such, by reason of any excommunication alleaged against the plaintiffe: because the sentence of the Ordinarie that did excommunicate him, is appealed from, and the appeale yet hangeth undecided, Which see: and see *Fitz. nat. br. De excommunicato capiendo. fol. 62. N.* but especially 66. *A.* where you may find writs of this name in other cases.

Sine assensu capituli, is a writ that lyeth in case where a Deane, Bishop, Prebendarie, Abbot, Prior or Master of Hospitall, alieneth the

the land held in the right of his house, without the consent of the Chapter, Couent, or Fraternitie. For in this case his successor shall haue this writ. *Fitzb. nat. br. fol. 195.*

Si non omnes, is a writ of association, whereby if all in commission cannot meete at the day assigned, it is permitted, that two or more of them may finish the businesse. See *Association*. And *Fitz. nat. br. fol. 185.* & *111. C. and Register origin. fol. 202. 206. & 124.*

Si recognoscant, is a writ that lyeth for a Creditour against his debtor for money numbered, that hath before the Shyreue in the Countie court, acknowledged himselfe to owe unto his creditor such a summe received of him in *numeratis pecuniis*. The forme of the writ is this: *Rex Vicecomiti salutem. Prac. tibi quod si A. recognoscat se debere R. 40. solid. sine ulteriori dilatione, tunc ipsum distringas ad predictum debitum eidem R. sine dilatione reddendum. Teste, &c. Old nat. br. fol. 68.*

Skawe. anno 4. Ed. 4. cap. 1

Skyvinage. anno 27. H. 6. cap. 2. a proper name, signifying the precincts of *Caleis*.

Sluse (exclusa) is a frame to keepe, or let water out of a ground.

Soc (Soca) is a word signi-

fying a power, or libertie of Iurisdiction, as appeareth by these words out of *Bracton*, *Sunt quidam Barones. & alii libertatem habentes. sc: soc. & sac. Tol & Thean, Infangthefe, & Urfangthefe, & isti possunt indicare in Curia sua, cum qui inuexus fuerit infra libertatem suam seiscitus de aliquo latrocini manifestus. & li. 3. tractat. 2. cap. 8.* In the lawes of King Edward set out by *M. Lamberd. fol. 132.* you haue these words: *Socha est quod si aliquis querit aliquid in terra sua, etiam furtum, sua est iusticia, si inuentum fuerit, an non. Saxon in the description of Britany, cap. 11.* saith, that Sock is a suite of Court. and that thereof cometh *Soken*. But the signification of the word (as I haue beene credibly informed) is as much as *Inquisitio* which we in moderne English, terme (seeking) Of this (*Sok*) *Skene de verborum signific.* speaketh to this effect. *Sok* is an old word vsed in Charters and feofments, which in sundry old bookes containing the municipiall law of this Realme, is called *Secta de hominibus suis in curia, secundum consuetudinem Regni*. So after my opinion he that is infeoffed with *Sok* (which now we call *Suit* (but we in England *Suite*) hath power to hould courts within his owne Baronie, in which, *homines sui*

should give *Soyt*. Thus farte *M. Skene*. Of this *Fleta* hath these words. *In huiusmodi verò maneris* (speaking of the Kings Manors) *erant olim liberi homines libere tenentes, quorum quidam cum per potentiores e tenementis suis ejecti fuerant, & eadem postmodum in villenagium tenenda resumpserunt: & quia huiusmodi tenentes cultores Regis esse dinoscuntur, eis provisafuit quies ne sectas facerent ad Comitatus vel Hundredos, vel ad aliquas inquisitiones, Assisas vel iuratas, nisi in Manerio tantum, dum tamen pro terra, quorum congregationem tunc socam appellarunt; & hinc est quòd Socmanni hodie dicuntur esse. A socio enim derivantur, quorum tenementa sunt villenagium domini privilegiatum, & ideo dicuntur gleba ascriptitii, eo quòd ab huiusmodi glebis amoveri non deberent, quamdiu solvrent debitas pensiones: nec compelli poterunt ad huiusmodi tenementa tenenda contra suas voluntates, eo quòd corpora sua sunt libera. Nec obstat longa servitutis possessio ad libertatem extinguendam, quamvis ad merchetum sanguinis sui compulsus fuerit quis pro tenemento reddendo. Nulla enim servitus ratione prescriptionis temporis potest liberum sanguinem in servitutem reducere, non magis quam liberum tenementum potest servum in libertatem, &c.* By whose words it appeareth, that *Soca* is nothing

else, but the meeting or assembly of these kinde of tenants in any place within the Manor or Libertie: wherefore hee that hath Soc may seeine to have such a Manor, such Tenants, and such a Liberty belonging to his Manor and Tenants, as is here described. Here you see diversities of opinions touching this word, one saying that it is a power or libertie to seeke after Theeves and stolen goods within a Manor or Fee, and to doe Iustice upon such inquisition; others, that it is a liberty onely to have suiters to his Court; others, as *Fleta*, that it containeth both the former significations, and further that it is taken for the company of Tenants which live within such a Liberty; and are exempted from those common services of the Prince and Countrey whereunto subjects are ordinarily tyed. This kinde of liberty is in divers places at this day in England, and commonly knowne by the name of *Soke* or *soke*. See *Soke* and *Sockmans*.

Socage (*soccagium*) commeth of the French (*Soc. i. vomer, a Plowthare or coulter.*) It signifieth in our Common Lawe a tenure of Landes by or for certaine inferiour, or husbandly services to bee performed to the Lord of the Fee. See *Institutes of*

common lawe. 31. As I haue shewed in (*Chivalrie*.) all services due for land, is either knights seruice, or focage. So then, whatsoever is not knights seruice, is focage: *Bracton* in his 2. booke cap. 35. num primo describeth it thus. *Dici poterit focagium à Socco, & inde tenentes qui tenent in Sockagio, Sockmanni dici poterunt, eo quod deputati sunt, ut videtur, tantummodo ad culturam, & quorum custodia, & maritagia ad propinquiores parentes jure sanguinis pertinebit. Et si aliquando inde de facto capiatur homagium, quod pluries contingit, non tamen habebit propter hoc Dominus capitalis custodiam, & maritagium. Quia non semper sequitur homagium, licet aliquando sequatur. M. Skene de verborum significatione. verb. Sockmannia, faith, that Sockage is a kinde of holding of lands, when a man is infeoffed freely without any seruice, ward, releife, or marriage, and paieth to his Lord such dutie, as is called petit sergeantie, or when one holdeth land in the name of burgage, or in libera elemosina, or otherwise in blenche ferme, sine nomine alba firma, & opponitur militi, qui tenet per seruitium militare. Out of the place aboue named in *Bracton*, you may finde a diuision of Sockage, whereby it is termed either *Soccagium liberum*, or villa-*

num; frank or free Sockage, and base, otherwise called villenage. The former is there thus defined. *Soccagium liberum est, ubi fit seruitium in denariis Dominis capitalibus, & nihil inde omnino datur ad scutum & seruitium Regis.* Where I gather that to be free focage which paieth a certaine summe of money to the chiefe Lord in regard of some tillage, or such like, and not of any Sergeantie, or escheuage. And to this effect he writteth also, *lib. 2. cap. 16. nu. 9. &c. unde si tantum in denariis & sine scutagio vel seriantis, vel si ad duo teneatur sub disunctione, scilicet ad certam rem dandam pro omni seruitio, vel aliquam summam in denariis, id tenementum potest dici Soccagium: si autem superaddas Scutagium, aut seruitium regale, licet ad unum obulum vel seriantiam, illud poterit dici feudum militare.* This free Sockage, is also called common Sockage, anno 37. H. 8. cap 20. Sockage in base tenure, or villanum Sockagium, is diuided againe in villanum Sockagium, & purum villenagium: Villanum Sockagium est illud, de quo fit certum seruitium, idque ratione sui tenementi, non persone sue. Purum villenagium est illud, in quo prestatur seruitium incertum, et inde terminatū, ubi sciri non poterit vespere, quale seruitium fieri debet mane, viz. ubi quis facere tenetur

quicquid ei præceptum fuerit. Bratton lib. 2. cap. 8. num. 3. The old. nat. br. fol. 94. maketh three parts of this diuision. viz. Soccage of free tenure, Soccage of auncient tenure, and soccage of base tenure. Soccage of free tenure is (as the booke saith) where a man holdeth by free seruice of 12. pence by yeare, for all maner of seruices, or by other seruices yearly. Soccage of auncient tenure is of land of auncient *Demesn*, where no writ originall shall be shewed, but the writ of Right, that is called *secundum consuetudinem manerii*. Soccage of base tenure is of those that hold in Soccage, and may haue none other writ, but the *Monstraverunt*: and such Sockmen hold not by certaine Service. And for that are they not free Sockmen. Then againe Soccage is diuided into soccage in chiefe, and common soccage. Soccage in chiefe or in *capite*, is that which holdeth of the King, as of his Crowne. *Frarog. fol. 41.* Common Soccage is that, which holdeth of any other capitall Lord, or of the King by reason of some honour or maner. *Ibidem.* Burgage is also a kinde of Soccage, See *Burgage*.

Sockmans (Sockmanni) are such tenents as hold their lands, and tenements by Soccage tenure.

And accordingly as you have 3. kinds of Soccage, so bee there 3. sorts of sockmans as sockmans of frank tenure. *Kitchin. fol. 81.* sockmans of auncient *Demesn* old nat. br. fol. 11. and Sockmans of base tenure. *Kitchin ubi supra.* But the tenents in auncient *Demesn*, seeme most properly to be called *Sockmans*, *Fitzh. na. br. f. 14. B. Brit. c. 66. n. 2.*

Soke, anno 32. H. 8. cap. 15. & cap. 29. Of this *Fleta* saith thus, *Soke significat libertatem curie tenentium quam socam appellamus. lib. 1. cap. 47. §. Soke.* See *Roger Hoveden. parte post. suorum annalium. fol. 345. b.* and See *Soc.*

Soken (Soca) see *Soc.* and *Hamsoken.* *Soken* is latined *Soca*, *Register originall fol. 1. a.*

Sokerene seemeth to be the Lords rent-gatherer in the *Soke*, or *Soken*, *Fleta, lib. 2. cap. 55. in principio.*

Sole tenant (Solutus tenens) is he or shee which holdeth onely in his or her owne right without any other joynd. For example, if a man and his wife hold land for their liues, the remainder to their son: here the man dying, the Lord shall not haue Heriot, because he dieth not sole tenant. *Kitchin, fol. 134.*

Solicitor (Solicitor) cometh of the French (*Soliciteur*.) It signifieth in our common law, a man imploied to follow suites depen-

depending in Lawe, for the better remembrance and more ease of Attornies, who commonly are so full of Clients and businesse, that they cannot so often attend the Serjants and Counsellors, as the case may require.

Solet & debet. See *Debet & solet.*

Solidata terra. See *Farding deale of land.*

Sollace, anno 43. Elizabeth. cap. 10.

Sommons, aliàs summons (summonitio) cometh of the French (*semondre .i. vocare*) It signifieth in our common Law, as much as (*vocatio in ius*) or (*ciatio*) among the Civilians. And thence is our word (*semner*) which in French is (*semonneur .i. vocator monitor*) The Customary of Normandy for our (*sommons* hath *semonse*) ca. 61 *summons* of the Exchequer, anno 3. Ed. 1. cap. 19. & anno 10. ejusdem cap. 9. How *summons* is divided, and what circumstances it hath to be observed. See *Fleta li. 6. cap. 8. 7.*

Sollutione feodi militis Parlamenti, and solutione feodi Burgen. Parlamenti, bee Writs whereby Knights of the Parliament may recover their allowance, if it bee denied, anno 35. H. 8. ca. 11.

Sontage. Stow. pag. 284. is a taske of forty shillings laid upon every Knights fee.

Sorting Kersies. 3. laco. cap. 16.

Sothale, is a kinde of intertainment made by Bayliffes to those of their Hundreds for their gaine. Which sometime is called *Filtale*. Of this *Bracton lib. 3. tractat. 2. cap. prim.* hath these words: *De Ballivis qui faciunt servicias suas, quas quandoque vocant (sothale) quandoq; (fictale) ut pecunias extorqueant ab eis qui sequuntur Hundreda sua, & Ballivas suas &c.* I thinke this should rather bee written *Scotale*. See *Scotale*.

Southwicont (*Subvicecomes*) is the Vndersheriffe. *Cromptons Invisdict. fol. 5.*

Sowne, is a verbe neuter, properly belonging to the Exchequer, as a word of their art, signifying so much, as to bee leviable, or possible to bee gathered or collected. For example, *Estreats* that *sowne* not, are such as the *Shyreue* by his industry cannot get, and *estreats* that *sowne*, are such as he can gather, anno 4. H. 5. cap. 2.

Speaker of the Parliament, is an Officer in that high Court, that is as it were the common mouth of the rest: and as that honourable Assembly consisteth of two Houses, one called the Higher or Vpper House, consisting of the King, the Nobility, and Kings Councell, especially appointed for the same, the other termed the Lower or Common House,

containing the Knights of the Shires, the Citizens, Barons of the Cinque Ports, and the Burgeses of Borough Townes: so bee there also two Speakers, one termed the Lord Speaker of the Higher house, who is most commonly the Lord Chancellor of England, or Lord Keeper of the Great Seale: the other is called the Speaker of the Lower House. And the duties of these two you have particularly described in *M. Vowels, aliàs Hookers* Booke, intituled, The order and usage of keeping the Parliament.

Speciall matter in evidence. See *Generall Issue*. And *Brook. tit. Generall Issue*, and *speciall evidence*.

Spiritualties of a Bishop (*spiritualia Episcopi*) bee those profits which hee receiveth, as he is a Bishop, and not as hee is a Baron of the Parliament, *Stawf. pl. cor. fol. 132*. The particulars of these may be the duties of his Visitation, his benefit growing from ordering and instituting Priests, prestation Money, that *subsidiū charitativum*, which upon reasonable cause hee may require of his Clergie. *Iohannes Gregorius de Beneficiis. cap. 6. num. 9.* and the Benefite of his Iurisdiction. *Ioachimus Stephanus de Iurisdic. lib. 4. cap. 14. num. 14* for these reckoneth *Exactionem Cathedralitici, quartam Decimarum & mor-*

tuariorum, & oblationum pensitationem, subsidium charitativum, celebrationem Spædi, collationem viatici vel comneatus, cum Episcopus Romam proficitur ins Hospitii, Litaniam, & Processionem.

Spickenard (*spica-nardi, vel nardus*) is a medicinall herbe, whereof you may for your further Instruction reade *Gerards Herball. lib. 2. cap. 425*. The fruit or care of this (for it bringeth forth an care like Lavender) is a druggie garbleable, *anno 1. Iacob. cap. 19*.

Spoliation (*spoliatio*) is a Writ that lyeth for an Incumbent against another Incumbent, in case where the right of Patronage commeth not in debate. As if a Parson bee made a Bishop, and hath dispensation to keepe his Rectory, and afterward the Patron present another to the Church, which is instituted and inducted: The Bishop shall haue against this Incumbent a Writ of *Spoliatio. in Court Christian.* *Fitzh. nat. br. fo. 36*. See *Benevolence*.

Squalley, anno 43. Eliz. b. cap. 10.

Squyers. See *Esquires*.

Stable stand, is one of the foure Evidences, or presumptions whereby a man is convinced to intend the stealing of the Kings Deare in the Forest.

c. Man-

Manwood. parte 2. of his Forest Lawes. cap. 18. num. 9. the other three be these, *Dogdrawe*, *Back-beare*, *Blondie-hand*. And this *Staplestand*, is when a man is found at his standing in the Forest, with a Crosse-bowe bent, ready to shoote at any Deere, or with a long Bowe, or else standing close by a tree with Greyhounds in a lease, ready to flippe, *Idem eodem*.

Stalkers, a kind of net, anno 13. R. 2. stat. 1. cap. 20. & anno 17. ejusdem cap. 9.

Stallage (*Stallagium*) commeth of the French (*Eftaller*. i. *merces exponere, expedire, explicare*.) It signifieth in our Common Lawe, money paid for pitching of stalles in Faire or Market. See *Scavage*. This in Scotland is called *stallange*. *Skene de verbor. signific. verbo Stallangiatores*. And among the Romanes it was termed (*Siliquaticum*) à *siliqua*, primo et minimo omnium pondere apud illam nationem.

Stannaries (*stannaria*) commeth of the Latine (*stannum*.) i. *tyne*, signifying the Mines and workes touching the getting, and purifying of this metall in *Cornewall*, and other places. Of this read *Camden, Britan. pa. 119*. The liberties of the *stannarie* men granted by *Edw. 1.* before they were abridged by the statute, anno 50. *Edm. 3.* see in

Plowden, case Mines. fol. 327. a. b.

Staple (*Stapulum*) signifieth this or that Towne, or Citie, whither the Merchants of *England* by common order, or commandement, did carie their wools, wool-fels, cloathes, lead, and tinne, and such like commodities of our land for the utterance of them by the great. The word may probably bee interpreted two wayes: one taking it from (*staple*) which in the Saxon or old English language, signifieth the stay or hold of any thing. *Lamberd* in his duties of Constables, num. 4. because the place is certaine, and settled: and againe, from the French (*estape*. i. *forum vinarium*) because to those places, whither our English Merchants brought their commodities, the French would also meete them with theirs, which most of all consisteth in wines: But I thinke this latter the truer, because I find in the Mirrour of the world written in French these words. *A Calais y avoit Estape de le laine, &c.* Which is as much to say, as the staple for wools, &c. You may reade of many places appointed for this staple in the statutes of the land, according as the Prince by his Councell thought good to alter them, from the second yeare of *Ed. 3. ca. 9.* to the fifth of *Ed.*

the sixth, *cap. 7.* what officers the staples had belonging to them, you may see *anno 27. Ed. 3. stat. 2. cap. 21.*

Starre-chamber (*Camera stellata*) is a Chamber at *Westminster* so called (as *Sir Thomas Smith* conjectureth, *lib. 2. cap. 4.*) either because it is full of windowes, or because at the first all the rooffe thereof was decked with Images of gilded starres. And the later reason I take to bee the truer, because *anno 25. Hen. 8. cap. 1.* It is written the Sterred Chamber. In this Chamber every week twice during the terme, and the very next day after terme, is there a Court held by the Lord Chauncellor or Keeper, and other honourable personages of the Realme. This Court seemeth to have taken beginning from the statute, *anno 3. Hen. 7. ca. pri.* Whereby it is ordained, that the Lord Chauncelor and Treasurer of England for the time being, and the Keeper of the Kings Privie Seale, or two of them, calling to them a Bishop and a Temporall Lord of the Kings most honourable Councell, and the two chiefe Iustices of the Kings Bench, and common place, for the time being, or other two Iustices in their absence, should have power to call before them, and punish such misdoers, as there bee mentio-

ned. The faults that they punish, be *Routes, Riots, Forgeries, Mainte- nances, Embraceries, Perjuries,* and such other *Misdemeanures* as are not sufficiently provided for by the Common-law. It appeareth both by *Sir Thomas Smith, lib. 2 de Rep. Anglo. cap. 4.* and by experience also, that at this day, the whole number of the Princes most honourable Privie Councell, and such other Barons spirituall, or temporall as be called thither by the Prince, have place in this Court with those above named. Of this Court thus speaketh *Master Gwin* in the Preface to his readings. It appeareth in our bookes of the termes of King *Edward 4.* And of the report of cases hapning under the usurpation of *Richard* the third, that sometime the King and his Councell, and sometime the Lord Chauncelor, and other great personages, did use to sit judicially in the place then, and yet called the *Starre Chamber*. But for as much as belikethat assembly was not ordinary, therefore the next Kings, *Henry* the seventh, and his sonne, *Henry 8.* tooke order by two severall lawes, *viz. 3 H. 7. ca. pri. & 21. H. 8. ca. 2.* That the Chauncelor assisted with others there named, should have power to heare complaints against *Retainours, Embraceours, misdeme-*

nures of officers, and such other offences, which through the power and countenance of such as doe commit them, doe lift up the head above other faults: and for the which inferiour Iudges are not so meet to give correction. And because that place was before dedicated to the like service, it hath beene ever since also accordingly used. Touching the officers belonging to this Court, see *Camden*, pag. 112, & 113.

Statute, (*statutum*) hath divers significations in our common law. First, it signifieth a *Decree* or *Act of Parliament*, made by the Prince and three estates, which is the bodie of the whole Realme. And though it borrow the name from that kind of Decree, which those Cities, that were under the Roman Empire, made for the particular government of themselves, over and above the universall or common law of the Empire: yet in nature it cometh neereſt to that which the Romanes called (*Legem*) for that, as that was made by the whole people, noble and ignoble: so this is ordained by those, that represent the whole number, both of Prince, and Subjects, one and other, through the whole Kingdome. The difference nevertheſſe was

this, that (*Lex*) was offered to the consideration of the people by the Magistrate of the Senate, or Conſull: but the Bills or suggestions whence our Statutes spring, are offered by any of either house, and so either passed or rejected. In this signification a statute is either generall or speciall. *Coke*, lib. 4. *Hollands case*, fol. 76. a.

Statute, in another signification is a short speech taken for a bond: as statute Merchant, or statute staple, anno 5 H. 4. cap. 12. The reason of which name is, because these bonds are made according to the forme of statutes expreſſely, and particularly provided for the same; which direct both before what persons, and in what maner they ought to be made, *West*, parte prim. *symbol. lib. 2. Sect. 151.* where he defineth a statute Merchant thus: A statute Merchant is a bond acknowledged before one of the Clerkes of the statutes Merchant, and Maior or chiefe Warden of the Citie of London, or two Merchants of the said Citie for that purpose assigned, or before the Maior, chiefe Warden, or Master of other Cities or good Townes, or other sufficient men for that purpose appointed, sealed with the seale of the Debter, and of the King, which is of two pieces, the

greater is kept by the said Maior, chiefe Warden, &c. and the lesser peece thereof by the saide Clerks. The forme of which bond, you may see in *Fleta. lib. 2. cap. 64. §. 2.* to be such; *Noverint universi me. N. de tali comitatu teneri N. in 10. marcis solvendis eidem ad festum Pent. Anno regni Regis, &c. & nisi fecero, concedo quod currant super me & Heredes meos districtio, & poena provisa in statuta Domini Regis edito apud Westm. Datum London. tali die, anno. supra dicto.* The fee for the same seale, is for statutes knowledged in Faires; for every pound an halfe penny, and out of Faires a farding. The execution upon statute Merchant, is first to take the body of the Debtor, if hee be lay and can bee found: if otherwise, then upon his lands, and goods: The bound is founded upon the statute, *anno 13. Ed. prim. stat. 4.* Of this also, as of the statute Staple, see the newe Booke of Entries, *verbo Statute Merchant*; and read in *Fleta ubi supra* more touching this mater worth the reading.

Statute staple, (to use the very words of Master *West.*) is either properly so called, or improperly. A Statute staple properly so called is a Bond of Record knowledged before the Maior of the Staple, in the presence of one of the two

Constables of the same staple, for which seale the fee is of everie pound, if the summe exceed not a 100 pound, an halfe penny, and if it exceed an 100 pound, of everie pound a farthing. And by vertue of such statute Staple, the Creditor may forthwith have execution of the bodie, lands and goods of the Debter; and this is founded upon the statute, *anno 27. Ed. 3. cap. 9.* A statute Staple improper, is a bond of Record, founded upon the statute *anno 23. H. 8. cap. 6.* of the nature of a proper statute Staple, as touching the force, and execution thereof, and knowledged before one of the chiefe Iustices, and in their absence, before the Maior of the staple, and Recorder of London. The formes of all these bonds, or statutes, see in *West. parte prim. Symbol. lib. 2. Sect. 152, 153, 154, 155.* Statutes is also used in our vulgar talke, for the Petit sessions, which are yearely kept for the disposing of Servants in service, by the statute, *anno 5. Elizabeth, cap. 4.* See *Recognisance.*

Statute sessions, otherwise called Petit sessions, are a meeting in every Hundred of all the Shires in England, where of custom they have beene used, unto the which the Constables doe repaire, and others, both householders and servants, for the

debating of differences betweene Masters and their Servants, the rating of Servants wages, and the bestowing of such people in service, as being fit to serve, either refuse to seeke, or cannot get Masters, *anno 1. Eliz. cap. 4.*

Statuto stapula, is a writ that lieth to take his bodie to prison, and to seise upon his lands and goods, that hath forfeited a bond, called Statute staple, *Regist. orig. fol. 151. a.*

Statutum de laborariis, is a writ Iudiciall for the apprehending of such labourers, as refuse to work according to the statute, *Reg. Iudi. fol. 27. b.*

Statuto Mercatorio, is a writ for the imprisoning of him, that hath forfeited a bond called the Statute Merchant, untill the debt be satisfied, *Register origin. fol. 146. b.* and of these there is one against Lay persons, *ubi supra.* and another against Ecclesiasticall. 148.

Stavifaker, *staphis agria*, vel *herba pedicularis*, is a medicinal herb, the kind and vertues wherof, you have set forth in *Gerards Herball, lib. 1. cap. 130.* The seed of this is mentioned among drugs to be garbled, *anno 1. Jacob. cap. 19.*

Stennerie, is used for the same that *Stannaries* be, in the statute *anno 4. H. 8. cap. 8.* See *Stannaries.*

Sterling (*Sterlingum*) is a proper epitheton for money current within the Realme. The name groweth from this, that there was a certaine pure Coine, stamped first of all by the *Easterlings* here in England, *Stowes Annals. pag. 112.* The which I rather believe, because in certaine old Monuments of our English, and broken French, I find it written *Esterling*; so *Rog. Hoveden* writeth it, *parte poster. annalium, fol. 377. b. M. Skene de verborum signific. verbo. Sterlingus*, saith thus: Sterling is a kind of weight containing 32. cornes, or graines of wheat. And in the Canon law mention is made of five shillings sterling, and of a merke sterling, *cap. 3. de arbitris, &c. constituit, 12. de procurator.* And the sterling penie is so called, because it weighes so many graines, as I have sundrie times proved by experience. And by the law of England the penie which is called the sterling round, and without clipping, weigheth 32. graines of wheat without tailes, whereof twenty make an ounce, and 12. ounces a pound, and eight pound maketh a gallon of wine, and eight gallons make a bushell of London, which is the eight part of a quarter. Hitherto *M. Skene. Buchanan. lib. 6.* saith, that the common people thinke it so

termed, of Sterling a Towne in Scotland. Our *Lyndwood* saith that it is called sterling of the bird which wee call a sterling which as hee noteth, was ingraven in one quarter of the coine so termed, *cap. Item quia. de testamentis. verbo. Centum solidos. in glos.*

Stewes, are those places, which were permitted in England to women of professed incontinencie, for the proffer of their bodies to all commers: It is derived from the French (*Estuves. i. therma, vaporarium, Balneum*) because wantons are wont to prepare themselves to these venerous acts, by bathing themselves. And that this is not new, *Homer* sheweth in the 8. booke of his *Odiss.* where he reckoneth hot bathes among the effeminate sort of pleasures. Of these stewes see the statute *anno 11. Hen. 6. cap. prim.*

Steward. See *Seneschall* and *Steward*, *Steward* of the Kings house, *anno 25. Ed. 3. statute 5. cap. 21.*

Stillyard (*Gilda Theutonico-rum, anno 22. H. 8, ca. 8. & anno 32. ejusdem, ca. 14.*) is a place in London, where the fraternitie of the *Easterling Merchants*, otherwise the Merchants of *Hawse* and *Almaine*, *anno pri. Ed. 6. cap. 13.* are wont to have their abode. See *Geld*. It is so called

of a broad place, or Court, wherein Steele was much sold, upon the which that house is now founded. *Nathan Chitraus. See Hawse.*

Stone of woll (*Petra lane*) see *Weights*. See *Sappler*. It ought to weigh fourteene pounds, yet in some places by custome it is more. See *Cromptons Justice of peace, fol. 83 b.*

Straise, aliàs Stray. See *Estric*.

Straites, anno 18. H. 6. ca. 16.

Streme works, is a kind of work in the *Stannaries*: for (saith *M. Camden, titulo Cornwall, pa. 119.*) *Horum Stannariorum sive metallicorum operum duo sunt genera: Alterum Lode-works, alterum streme-works vocant. Hoc in locis inferioribus est cum Fossis agendis stanni venas sectantur et fluviorum alveos subinde deflectunt: illud in locis editioribus, cum in montibus puteos, quod Shafis vocant in magnam altitudinem defodiunt, & cuniculos agunt. These you may reade mentioned anno 27. H. 8. cap. 23.*

Stirks.

Strip. See *Estreapement*.

Suard, aliàs steward (*senescallus*) seemeth to be compounded of *Steed* and *ward*, and is a word of many applications: yet alway signifieth an officer of chiefe account within the place of his sway. The greatest of these is the Lord high *Steward* of England, whose power (if those Antiqui-

ties be true which I haue read) is next to the Kings, and of that heighth, that it might in some sort match the *Ephori* amongst the *Lacedemonians*. The custome of our Commonwealth hath upon great consideration and policie brought it to passe, that this high Officer is not appointed for any long time, but onely for the dispatch of some especiall businesse, at the arraignment of some Noble man in the case of treason, or such like : which once ended, his Commission expireth. Of the high Steward of *Englands* Court, you may read *Cromptons Iurisd.* fol. 82.

I haue reade in an auncient Manuscript of what credit, I know not, that this Officer was of so great power in auncient times, that if any one had sought justice in the Kings Court and not found it, hee might upon complaint thereof made unto him, takethose Petitions, and reseruing them to the next Parliament, cause them there to be propounded, and not onely so, but also in the presence of the King openly to rebuke the Chaunceller, or any other Iudge, or Officer whom he found defective in yeelding Iustice. And if in case the Iudge, or Officer so reprehended, did alledge, that his defect grew from the difficultie of the case, insomuch as

hee durst not adventure upon it : then the case being shewed, and so found, the Lord Steward together with the Constable of *England*, there in the presence of the King and Parliament, might elect five and twenty persons, or more, or fewer, according to their discretion, and the case or cases in question, some Earles, some Barons, some Knights, some Citizens and Burgeses, which upon deliberation should set downe, what they thought just and equall : and their decree being read and allowed by Parliament, did stand as a Law for ever : furthermore, if the Chancellor or other Iudge or officer, could not well approve that the delay of Iustice complained of, grewe from just difficulty, by reason that the case in question was formerly determined by law or statute : then might the Steward on the Kings behalfe, admonish him of his negligence, and will him to be more carefull and studious. Or if there appeared malice, or corruption, then the King and Parliament was wont to remove him and assigne another of better hope to the place. Lastly, if the King had about him any such evill Councillor, as advised him to things unjust, or unanswerable to his Majestie, as tending either to the disherison of the

Crowne, publicke hurt, or destruction of the subject. The office of the Steward was, taking to him the Constable, and other great men, with some of the Commons, and giving notice to the King of their intention, to send to that Counsellor, and will him to desist from misleading the King, yea, if need so required, to charge him to stay no longer about him, but to depart from the Court, which if hee neglected to performe, then they might send to the King, and with him to remoove him: and if the King refused, then they might take him as a publicke enemy to the King and Realme, seise on his goods and possessions, and commit his body to safe custody, untill the next Parliament, there to be judged by the whole Kingdome: examples are brought of *Godwin Earle of Kent* in the time of King *Edward* next before the Conquerour, of *Hubert Burgh Earle of the same County*, in the raigne of *Henry the third*, and of *Peter Gaveston*, in *Edward* the seconds dayes. But experience (as I said) hath found this officer more dangerous then profitable, and therefore hath time taught, though not wholly to suppress him, yet to limite him to particular occasion, and to restraîne his power. Then is there the Steward of the Kings most

honourable household, anno 24. *Hen. 8. cap. 13* whose name is changed to the name of *great Master*, anno 32. *ejusdem, cap. 39*. But this statute was repealed by *annopr. Mar. 2. Parlam. cap. 4*. and the office of the Lord Steward of the Kings household revived: where you may at large reade divers things touching his office. As also in *Fitz. nat. brev. fol. 241. B.* Of this Officers ancient power, reade *Fleta, lib. 2. cap. 3*. There is also a Steward of the *Marshalsea, pl. cor. fol. 52. & anno 33. Hen. 8. cap. 12*. To be short, this word is of so great diversity, that there is not a Corporation of any accompt, or house of any honour, almost through the Realme, but it hath an officer toward it of this name. A Steward of a manour, or of a household, what he is or ought to be, *Fleta* fully describeth. *lib. 2. cap. 71. & 72.*

Straunger, commeth of the French (*estranger. i. alienare.*) It signifieth in our Language generally a man borne out of the land or unknowne: but in the Law, it hath an especiall signification for him that is not privie, or a party to an act: as a *Straunger* to a judgement: *old. nat. br. fol. 128.* is hee to whom a judgement doth not belong. And in this signification it is directly contrary to (*partie*) or

(*privie.*) See *Privie.*

Submarshall, (*submareſcallus*) is an officer in the Marſhal-ſea, that is, Deputie to the chiefe Marſhall of the Kings houſe, commonly called the Knight Marſhall, and hath the cuſtodie of the priſoners there. *Cromptons Iuriſd. fol. 104.* Hee is other wiſe called *Vnder-marſhall.*

Subpœna, is a writ that lyeth to call a man into the Chancerie, upon ſuch caſe onely, as the common law faileth in, and hath not provided for: ſo as the partie, who in equitie hath wrong, can have none ordinarie remedie, by the rules and courſe of the common law, *West, parte 2. ſymbol. titulo Proceedings in Chancerie, Sect. 18.* where you may reade many examples of ſuch caſes, as *Sub pœna* lieth in. There is alſo a *Sub pœna ad teſtificandum*, which lieth for the calling in of witneſſes to teſtifie in a cauſe, as well in Chancerie, as in other Courts. And the name of both theſe proceed from words in the writ, which charge the partie called to appeare at the day and place aſſigned, *Sub pœna centum librarum, &c.* I find mention of a common *Sub pœna* in *Cromptons Iuriſd. fo. 33.* which ſignifieth nothing elſe but ſuch a *Sub pœna*, as every common perſon is called by into the Chancerie: whereas any Lord

of Parlament is called by the Lord Chancellers Letters: giving him notice of the ſuit intended againſt him, and requiring him to appeare. *Crompton, eodem.*

Subſidie (*Subſidium*) cometh of the French (*Subſide*) ſignifying a taxe or tribute aſſeſſed by Parlament, and granted by the Commons to be levied of every ſubject, according to the value of his land or goods after the rate of foure Shillings in the pound for land, and two Shillings eight pence for goods, as it is moſt commonly uſed at this day. Some hold opinion, that this Subſidie is granted by the Subject to the Prince, in recompence or conſideration, that whereas the Prince of his abſolute power, might make Lawes of himſelfe, hee doth of favour admit the conſent of his Subjects therein, that all things in their owne confeſſion may be done with the greater indifferencie. The maner of aſſeſſing every mans lands or goods, is this: Firſt, there iſſueth a Commiſſion out of the Chancerie to ſome man of honour or worſhip in everie Countie, by vertue thereof to call unto them, the head Conſtables or Bailiffes of every Hundred, and by them the Conſtable and three or foure of the ſubſtantialeft

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householders in every Towne within their Hundred at a day certaine: which men so called, or so many of them, as the Commissioners thinke good to use, do rate the inhabitants of their owne Towne, in such reasonable maner, as they find meet, yet by the discretion of the said Commissioners. And then every man after his value set downe, must at his time pay to the Collectour appointed, after the rate aforesaid, yet in ancient time, these Subsidies seeme to have beene granted both for other causes, as in respect of the Kings great travell, and expences in warres: or his great favours toward his Subjects: as also in other maner then now they be: as every ninth Lambe, every ninth Fleece, and every ninth Sheafe, *anno 14 Ed. 3. stat. prim. cap. 20.* And of these you may see great varietie in *Rastals Abridgement. ut. Taxes, Tenths, Fifteenths, Subsidies, &c.* whence you may gather that there is no certaine rate, but even as the two houses shall thinke good to conclude. Subsidie is in the statute of the land, sometime confounded with custome, *anno 11. H. 4. cap. 7.* See *Benevolence.*

Surety of peace, (securitas pacis) is an acknowledging of a Bond to the Prince, taken by a competent Judge of Record, for the ke-

ping of the peace, *Lamberds Erenarcha, li. 2. ca. 2. pag. 77.* This peace may a Justice of peace command, either as a Minister, when hee is willed so to doe by a higher authoritie, or as a Judge, when hee doth it of his owne power derived from his Commission. Of both these see *Lamberds Erenarcha, lib. 2. cap. 2. pag. 77.* See *Peace.* See *Supplicavit.*

Suffragan (Suffraganeus) is a titular Bishop ordained, and assisted to aide the Bishop of the Diocesse in his Spirituall function. *c. Suffraganeus. Extra de electione.* For the Etimologie, *Suffraganei dicuntur, quia eorum suffragis causa Ecclesiastica iudicantur.* *Ioach. Stephanus de Iurisdic. lib. 4. cap. 16. num. 14.* It was enacted *anno 26. H. 8. cap. 14.* that it should be lawfull to every Diocesan at his pleasure to elect two sufficient men within his Diocesse, and to present them to the King, that hee might give the one of them such title, stile, name, and dignitie of state in the said statute specified, as hee should thinke convenient.

Suizio (Secta) cometh of the French (*Suite. 1. affectatio, consecutio, sequela, comitatus*) It signifieth in our common law, a following of another, but in divers senses, the first is a suite in

in law, and is divided into suite reall, and personall. *Kitchin, fol. 74.* which is all one with action reall and personall. Then is there suite of Court, or suite service; that is an attendance which a Tenent oweth at the Court of his Lord. *Fitzh. nat. bre. in Indicc. verbo Suite. suite service and suite reall, anno 7. H. 7. cap. 2.* The new Expōitor of Law Termes, maketh mention of foure sorts of suites in this signification. Suite covenant, suite custome, suite reall, and suite service. *Suite covenant*, hee defineth to bee, when your Ancestor hath covenanted with mine Ancestor, to sue to the Court of mine Ancestors. *Suite custome*, when I and mine Ancestors haue beene seised of your owne, and your Ancestors suite, time out of mind, &c. *Suite reall*, when men come to the Sherifes Turne, or Leete, to which Court all men are compelled to come, to know the Lawes, so that they may not bee ignorant of things declared there, how they ought to bee governed. And it is called reall, because of their allegiance. And this appeareth by common experience, when one is sworne: his oath is that hee shall bee a loyall and faithfull man to the King. And this suite is not for the land that hee holdeth within the Countie,

but by reason of his person and his aboad there, and ought to bee done twice a yeare: for default whereof hee shall bee amerced and not distained. I thinke this should bee called rather regall or royall, because it is performed to the King for (royall.) The French word in the usuall pronunciation commeth neere to reall, the letter (o) being almost suppressed. See *Leete, Suite service*, is to sue to the Sherifes Turne or Leete, or to the Lords Court from three weekes to three weekes by the whole yeare. And for default thereof a man shall bee distained, and not amerced. And this suite service is by reason of the tenure of a mans land. Then doth suite signifie the following of one in chace, as fresh suite. *West. 1. cap. 46. a. 3. Ed. 1.* Lastly, it signifieth a Petition made to the Prince, or great personage.

Suite of the Kings peace (secta pacis Regis) anno 6. R. 2. stat. 2. cap. pri. & anno 21. ejusdem, cap. 15. & anno 5. Hen. 4. cap. 15. is the persiewing of a man for breach of the Kings peace, by treasons, surrections, rebellions, or trespasses.

Summonas, is a writ Iudiciall of great diversity; according to the divers cases wherein it is used, which see in the table of the Register Iudiciall.

Summoner (*summonitor*) signifieth one used to call or cite a man to any Court. These by the common law, ought to be *boni*, that is by *Fleta* his Iudgement, *liberi homines, & ideo boni, quia terras tenentes, quod sint coram talibus Iusticiariis ad certos diem, & locum secundum mandatum Iusticiariorum vicecomiti directum, parati inde facere recognitionem, lib. 4. cap. 5. §. Et cum.*

Summons (*Summonitio*) see *Summons*. *Common Summons*. *Marlb. cap. 18. anno 52. Hen. 3. is l.*

Summons in terra petita. *Kitch. fol. 286.* is that summons which is made upon the land, which the party at whose suite the summons is sent forth, seeketh to have; *Summons ad warrantizandum*. *Dyer, fol. 69 nu. 35.*

Sumage (*Sumagium*) seemeth to bee tolle for cariage on horsebacke, *Crompton, Iurisd. fol. 191.* For where the Charter of the Forest, *cap. 14.* hath these words: for a horse that beareth loads every halfe yeare, a halfe penny: the booke called *Pupilla oculi*, useth these words: *pro uno equo portante summagium per dimidium annum obolum.* It is otherwise called a Scame. And a Scame in the Westerne parts is a horse load.

Superoneratione pasture, is a writ Iudiciall that lyeth against

him who is impleaded in the County for the overburdening of a Common with his catell, in case where he is formerly impleaded for it in the county, and the cause is removed into the Kings Court at *Westm.*

Superfedeas, is a writ which lyeth in divers, and fundry cases, as appeareth by the table of the Register originall, and the Iudiciall also, and by *Fitzh. nat. br. fol. 236.* and many other places noted in the Index of his booke, *verbo Superfedeas.* But it signifieth in them all a command, or request to stay or forbear the doing of that, which in appearance of law were to bee done, were it not for the cause, whereupon the writ is graunted. For example: a man regularly is to haue surety of peace against him, of whom hee will sweare that hee is afraid, and the Iustice required hereunto cannot deny him. Yet if the party be formerly bound to the peace, either in Chauncerie, or else where: this writ lyeth to stay the Iustice from doing that, which otherwise hee might not deny.

Superstatutum, Ed. 3. vers servants and labourers, is a writ that lyeth against him, who keepeth my servant departed out of my service against Law. *Fitz. nat. fol. 167.*

Super statuto de Yorke quo nul sera viteller, &c. is a writ lying against him, that occupieth viteling either in grosse or by retaille in a Citie, or Borough Towne, during the time hee is Major, &c. *Fitz. natur. bre. fol. 172.*

Super statuto, anno pri. Edw. 3. cap. 12. & 13. is a writ that lyeth against the Kings Tenent holding in chiefe, which alienateth the Kings land without the Kings license. *Fitzh. nat. folio 175.*

Super statuto facto pour Seneschall & Marshall de Roy, &c. is a writ lying against the Steward, or Marshall for holding plee in his Court of Freehold, or for trespasse, contracts not made within the Kings houshold. *Fitzherbert, nat. brev. fol. 241.*

Super statuto de Articulis Cleri, cap. 6. is a writ against the Sheriffe, or other officer, that distraineth in the Kings high way, or in the glebe land anciently given to Rectories, *Fitzh. nat. br. fol. 173.*

Super prerogativa Regis, cap. 3. is a writ lying against the Kings widow for marrying without his license. *Fitzherbert, nat. br. fol. 174.*

Supplicavit; is a writ issuing out the Chauncerie for taking the surety of peace against a man. It

is directed to the Iustices of peace of the county, and the Sheriffe: and is grounded upon the statute, *anno pri. Edw. 3. cap. 16.* which ordaineth that certaine persons in Chauncerie shall bee assigned to take care of the peace. See *Fitz. nat. br. fol. 80.* This writ was of old called *Breve de minis*, as *Master Lamberd* in his *Eirenarcha*, noteth out of the *Register originall, fol. 88.*

Sur cui in vita, is a writ that lieth for the heire of that woman, whose husband having alienated her land in fee, shee bringeth not the writ *Cui in vita* for the recovery of her owne land, for in this case her heire may take this writ against the tenent after her decease. *Fitzherbert, nat. bre. fol. 193. B.*

Surgeon, commeth of the french (*Chirurgien. i. Chirurgus, vulnerarius*) signifying him that dealeth in the methanicall part of phisicke, and the outward cures performed with the hand. The French word is compounded of two Greeke words (*χείρ. i. manus*) and (*εργον. i. opus*.) And therefore are they not allowed to minister inward medicine. See statute 32. *Hen. 8. cap. 4.* and *Master Powltons* new abridgement, *titulo Surgeons.*

Surcharger of the Forest, is hee that doeth common with more beasts in the Forest, then hee

hath right to common withall. *Manwood, parte 2. of his Forest lawes, cap. 14. nu. 7.*

Surplusage (*surplusagium*) cometh of the French (*surplus. i. corollarium, additamentum*) It signifieth in the common law, a superfluity or addition more then needeth, which sometime is a cause that a writ abateth. *Brooke, titulo. Nugation & Superfluity, fol. 100. Plowden casu Dine, contra Maningham, fol. 63. b.* It is sometime also applied to matter of account, and signifieth a greater disbursement, then the charge of the accomptant amounteth unto.

Surrejoinder, is thus defined by *West. parte 2. symb. titulo. Supplications, sect. 57* A *Surrejoinder*, is a second defence of the Plaintifes action, opposite to the Defendants *Rejoinder*. And therefore (as hee saith) *Hotoman* calleth it *Triplicationem, qua est secunda actoris defensio, contra Rei duplicationem opposita*. Not *Hotoman* onely calleth this *triplicationem*: but the Emperour himselve. *De Replicationibus, libro 4. Institut. titulo 14.*

Surrender (*sursum reddito*) is an Instrument testifying with apt words, that the particular tenant of lands or teneiments for life or yeares, doth sufficiently consent and agree, that hee which hath the next or immediate Remain-

der, or Reversion thereof, shall also have the particular estate of the same in possession: and that he yieldeth, and giveth up the same unto him. For every surrender ought forthwith to give a possession of the things surrendered, *West. parte 1. li. 2. Sect. 503.* where you may see divers presidents. But there may be a surrender without writing. And therefore there is said to be a surrender in deed, and a surrender in law. A surrender in deed, is that which is really and sensibly performed. Surrender in law is in intendment of law by way of consequent, and not actually, *Perkins Surrender, fo. 606. & seqq.* as if a man have a lease of a term, and during the terme, hee accept of a new lease, this act is in law a surrender of the former, *Coke, vol. 6. fo. 11. b.*

Surfise (*superfisa*) anno 32. H. 8. ca. 48. seemeth to be an especial name used in the Castle of Dover, for such penalties, and forfeitures, as are laid upon those that pay not their duties or rent for Castleward at their daies, an. 32. H. 8. cap. 48. *Bracton* hath it in a generall signification *lib. 5. tract. 3. ca. 1. nu. 8.* and *Fleta, lib. 6. ca. 3. in prin.*

Surveieur (*supervisor*) is compounded of two French words (*sur. i. super*) and (*veoir. i. cernere, intueri, despicere, prospicere, videre*) It signifieth in our common law,

one that hath the overseeing or care of some great personages lands, or works. As the *Surveior* generall of the Kings manners, *Cromptons Jurisd. fol. 106.* And in this signification it is taken, *anno 33. H. 8. ca. 39.* where there is a Court of Surveiors erected. And the Surveior of the Wards and Liveries, *West, parte 2. symbologr. titulo Chancerie. Sect. 136.* which officer is erected *anno 33. H. 8. ca. 22.* who is the second officer by his place in the Court of Wards and Liveries, assigned and appointed by the King His office seemeth especially to consist in the true examination of the lands belonging to the Kings wards; that the King be not deceived. At the entrance into his office, he taketh an oath ministered unto him by the Master of that Court: which see *anno 33. H. 8. cap. 39.*

Surveior of the Kings Exchange, *anno 9. H. 5. stat. 2. cap. 4.* was an officer, whose name seemeth in these daies to be changed into some other. For I cannot learne that there is any such now.

Survivour, is compounded of two French words (*sur. i. super.*) and (*viure. i. etatem agere, vivere*) whence also cometh the compound (*Survivre. i. supereffe*) It signifieth in our common law, the longer liver of two joynt tenants. See *Brooke, titulo Joynt te-*

nents. fol. 33. or of any two joyned in the right of any thing.

Suspension (*Suspensio*) is used for a temporall stop of a mans right, and differeth from extinguishment in this, that a Right of Estate suspended reviveth againe, but extinguished it dieth for ever, *Broke, titulo Extinguishment and Suspension, fol. 314.* Suspension is also used in our common law, sometimes as it is used in the Canon law, *pro minori Excommunicatione.* As *anno 24. H. 8. cap. 12.* See *Excommunication.*

Suspirall, seemeth to bee a spring of water passing under the ground, toward a Conduit or Cestern, *anno 35. H. 8. ca. 10.* and to bee derived from the Latine (*suspirare*) or the French (*souspirer. i. ducere suspiria.*) And indeed the word it selfe is French: for (*suspiral*) in that tongue signifieth (*spiramentum caverna*) the mouth of a Cave or Den: or the tunnell of a Chimney.

Swainmot, alias *Swanimote*, (*Swainmotum*) signifieth a Court touching matters of the Forest kept by the Charter of the Forest, thrice in the yeare: *anno 3. Hen. octav. cap. 18.* it is called a Swannie-mote: what things be inquirable in the same, you may reade in *Cromptons Jurisd. fol. 180.* who saith that this Court of Swainmote is as incidnet

cident to a Forest, as the Court of Pie-powder is to a Faire: with whom agreeth M. *Manwood*, *par-ze pri. of his Forest lawes*, pag. 144. The word seemeth to be compounded of (*Swain*) and (*mot*) or (*Gemot*.) For Swaine, as M. *Manwood* saith *ubi supra*, pag. 111. in the Saxo is tongue signifieth a *Bockland* man, which at this day is taken for a Charterer, or Freeholder: and (*Gemot*) as M. *Lamberd* saith in his explication of Saxon words, *verbo Conventus*, is *Conventus*, whereupon it is to be noted, as hee saith in the same place, that the Swainemote is a Court of Free-holders within the Forest. Of the which you may reade him at large, pag. 110. &c. *usque* 122.

T A

Tabling of Fines, is the making of a Table for every Countie, where his Majesties writ runneth, containing the contents of every Fine, that shall passe in any one Terme, as the name of the Countie, Townes, and places, wherein the lands or tenements mentioned in any Fine, doe lye, the name of the Plaintiffe and Deforceant, and of every manner named in the Fine. This is to be done properly by the Chirographer of Fines of the

Common plees: who the first day of the next Terme after the ingrossing of any such Fine, shall fixe every of the said Tables in some open place of the Court of Common plees: and so eve y day of the said Terme during the sitting of the said Court. And the said Chirographer shall deliver to the Sheriffe of every Countie, his Vnder-sheriffe or Deputie, faire written in Parchment, a perfect content of the Table so to be made for that Shire, in the Terme that shall be next before the Assises to be holden in the same Countie, or else in the meane time betweene the Terme, and the said Assises, to be set up the first day, and everie day of the next Assises, in some open place of the Court, where the Iustices of Assises then shall sit, to continue there so long, as they shall sit in the said Court. If either the Chirographer, or Sheriffe faile herein, he forfeiteth five pounds. And the Chirographers fee for every such Table is foure pence, anno 23. *Elizabeth*, cap. 3. This saith *West*, parte 2. *Symbol. titulo Fines. Sect.* 120.

Taile (*Tallium*) commeth of the French (*Taile. i. Sectura*) or the verb (*tailler. i. scindere*) signifying in our comon law two severall things, both grounded upon one reason, *Plowden, casu Wil-*

lion, fol. 251. a b. First it is used for the fee, which is opposite to fee simple: by reason that it is so (as it were) minced, or pared, that it is not in his free power to be disposed of him which owneth it: but is by the first giver cut or divided from all other, and tied to the issue of the *Donee*. *Coke, lib. 4. in proemio.* And this limitation, or taile, is either generall, or speciall. *Taile generall* is that, whereby lands or tenements are limited to a man, and to the heires of his bodie, begotten. And the reason of this terme is, because how many soever women, the tenent holding by this title, shall take to his wives, one after another in lawfull matrimonic; his issue by them all, have a possibilitie to inherit, one after the other. *Taile speciall*, is that whereby lands, or tenements be limited unto a man and his wife, and the heires of their two bodies begotten: because if the man burie his wife before issue, and take another, the issue by this second wife cannot inherit the land, &c. Also if land should be given to a man and his wife; and to their Son and heire *John*, for ever: this is taile especiall. See more of this in fee. And *Littleton, lib. pri. ca. 2.* and the new booke of Entries, *verbo Taile*. *Taile* in the other signification, is that which wee vulgarly call a Tallie. For

it is *une taille de bois*, a cloven piece of wood to nicke up an account upon, for in the statute, *anno 10. Ed. pri. cap. 11.* and *anno 27. ejusdem, stat. pri. cap. 2.* it is termed a *Taile*, and *anno 38. Ed. 3. cap. 5.* And so in *Broke* his Abridgement, *titulo Taile d'Exchequer. fo. 247.* See *Tailles*.

Tailles (*tallia*) are in these daies called *Talleyes*, well knowne what they be. Of these reade in our statutes two sorts, to have beene usuall in the Exchequer for a long continuance. The one is termed *tayles of debt*, *anno 1. Rich. 2. cap. 5.* which are a kind of acquittance for debt paid in to the King. For example, the Vniversitie of *Cambridge* payeth yearely ten pounds, for such things as are by their Charter granted them in fee ferme, five pounds at the Annunciation, and five at Michaelmas. Hee that payeth the first five pounds, receiveth for his discharge a taile or talley, and hee that payeth the other five receiveth the like. With both which, or notes of them, hee repaireth to the Clerke of the Pipes office, and there, in stead of them, receiveth an acquittance in parchment for his whole discharge. Then be there also mentioned *tayles of reward*, *anno 27. H. 8. cap. 11* & *anno 33. & 34. ejusdem, cap. 16.* and *anno 2. & 3. Ed. 6. cap.*

4. And these seeme to bee tailles, or talies of allowances, or recompence made to Sheriffes for such matters, as to their charge they have performed in their office, or for such monies, as they by course have cast upon them in their accounts, but could not levie them where they were due. And these, as it seemeth by the said statute, *anno 27. H. 8. cap. 11.* were of old granted in the Exchequer unto them, upon warrant made to the Treasurer and Chamberlaines there, by the Clerkes of the Signet upon Bill assigned by the King. But sithence the statute, *anno 2. & 3. Edm. 6. cap. 4.* what the course in this case is, I am not so well informed. Onely I heare, that for some countiees these tailles be still in use, and that the warrant commeth now from the Auditour of the Receites, unto those that make these talies. And that the Sheriffe with them proceedeth to those who take his finall account, and there hath his allowance accordinglie.

Taylage (tallagium) aliàs, Tallage, commeth of the French (*taille*) which originally signifieth a piece cut out of the whole: and metaphorically is used for a share of a mans substance payed by way of tribute.

It signifieth with us, a tolle, or tax, as *anno prim. Ed. 2. cap. unico.* And *Stowes Annals*, pag. 445. Thence commeth *Tailagiers* in *Chawcer* for tax, or tolle gatherers.

Taint (Attinctus) commeth of the French (*teint. i. infectus, tinctus*) and signifieth either Substantively a conviction, or Adjectively a person convicted of felonie or treason, &c. See *Attaint*.

Tales, is a Latine word of knowne signification: It is used in our common law, for a supply of men empaneled upon a lury or Enquest, and not appearing, or at their apparence, challenged by the partie, or either partie, if there be two, as not indifferent, for in this case, the Iudge upon petition granteth a supply to be made by the Sheriffe of some men there present, equall in reputation to those that were empaneled. And heereupon the very act of supplying is called a *Tales de Circumstantibus*. This supply may be one or more, and of as many as shall either make default, or else bee challenged by each partie, *Stannford, pl. cor. lib. 3. cap. 5.* Howbeit, hee that hath had one *Tales*, either upon default or challenge: though hee may have another,

ther, yet hee may not have the later to containe so many as the former, for the first Tales must bee under the principall panell, except in a cause of Appeale, and so every Tales lesse then other, untill the number bee made up of men present in Court, and such as are without exception to the partie, or parties. Of this see *Stawnsford* more at large *ubi supra*: where you may find some exceptions to this generall rule. These commonly called (*Tales*) may in some sort, and indeed are called (*Meliores*) viz, when the whole Iurie is challenged, as appeareth by *Brooke, titulo. Octo tales & auter tales, fol. 105*. In whom you may likewise reade many cases touching this matter.

Tales, is the proper name of a booke in the Kings bench office, *Cooke, lib. 4. fol. 93. b.*

Tallage. See *Taylago*.

Talshide. See *Talwood*.

Talwood, vide anno 34. & 35. *Henricus octavus, capit. 3. & anno 7. Edm. 6. cap. 7. & 43. El. cap. 14. Talshide, ibidem*. It is a long kind of shide riven out of the tree, which shortned is made into billets.

Tartaron, anno 12. *Edward 4. cap. 3. & anno 4. Henry 8. cap. 6.*

Tasels, anno 4. *Edward 4. cap. 1.* is a kind of hard burre

used by Clothiers and Cloath Workers in the dressing of Cloath.

Taske, aliàs Taxe, by *M. Camden* following the authority of *Doctor Powell* (whom hee greatly commendeth for his diligence in the search of Antiquities) is a British word signifying tribute. *Camden, Britan. pag. 304.* And it seemeth, it is such a kinde of tribute, as being certainly rated upon every Towne, was wont to bee yearly paide. See *Gild*, and the places there cited out of *Master Camden*. Now is it not paid; but by consent given in Parliament, as the Subsidie is. And it differeth from Subsidie in this, that it is alway certaine, accordingly as it is set downe in the Chequer booke, and levied in generall of every towne, and not particularly of every man. Lastly, it is a fifteenth of that substance, that every towne was first rated at by the number of Hides of Land in the same. Whereupon it is also called a fifteenth, vide anno 14. *Ed. 3. stat. 1. cap. 20.* For whereas *Master Crompton in his Iurisdictions, fol. faith*, that it is levied sometime by goods, as well as by lands, as also appeareth by the Statute, anno 9. *Hen 4. cap. 7.* I take his meaning there to bee, that though the taske in the

whole were at the first by the Prince proportioned by the land : Yet the Townes men among themselves to make up that summe, are at these dayes sometime valued by goods. See *Fifteenth*. It seemeth that in ancient times, this taske was imposed by the King at his pleasure, but *Edward* the first, *anno* 25. of his raigne, bound himselfe, and his successors from that time forward, not to levie it, but by the consent of the Realme, *anno* 25. *Ed. pri. cap. 5.* The word *Taske* may be thought to proceed from the French (*Taux*, aliàs *Taxe*. i. *astimatio*, *pretium*) for weecall it also *Taxe*: but over curiously to contend in these derivations, may seeme frivolous, considering that many words are common to divers peoples.

Telonium, or *Breve essendi quitum de Telonio*, is a writ lying for the Citizens of any Citie, or Bourgesies of any Towne that have a Charter, or prescription to free them from Tolle, against the officers of any towne, or market constraining them to pay Tolle of their Merchandise, contrary to their said graunt or prescription. *Fitzh. nat. br. fol. 226. Hotoman lib. 2. commentariorum in fenda, cap. 56. vers. Vestigalia*, hath these words : *Telonis autem dicuntur publicanorum stationes in quibus vestigalia*

recipiunt: sed apud istius generis scriptores, Telonium dicitur vestigal, quod pro pontium aut riparum munitione penditur: & plerumq; à principibus solius exactionis causa, imperatur.

Team, aliàs *Theam*, is an old Saxon word, signifying a Royalty granted by the Kings Charter, to a Lord of a manour, *Bracton, lib. 3. tract. 2. cap. 8.* of this *Saint Edwards lawes*, *nu. 25.* say thus. *Quod si quisquam aliquid interci- et (id est, penes alium defendat) super aliquem, & intercitatus, non poterit marantum suum habere, erit forisfactura sua, & iusticia similiter de calumniatore, si defecerit. M. Skene de verborum significatione, verbo Theme*, saith, that it is a power to have servants & slaves, which are called *nativi, bondi, villani*, and all Baronies infeoffed with *Theme*, have the same power. For unto them all their bondmen, their children, goods and cattels, properly appertain: so that they may dispose of them, at their pleasure. And in some old authenticke bookes it is written. *Theme est potestas habendi nativos, ita quod generationes villanorum vestrorum, cum eorum catallis, ubicunq; inveniantur, ad vos pertineant.* *Theme* commeth from *Than*, i. *servus*, and therefore sometime signifieth the bondmen, and slaves, according to an old statute and law. *De curia de The-*

me. *Quod si quis teneat curiam de Theme, & illa querela in illa curia movetur, ad quam Theme vocatur: non debet illa curia elongari, sed ibidē determinari, & omnes Theme ibi compareant.* Which is understood of the question of liberty, when it is in doubt, whether any person bee a bond man or free man. Which kind of proces should not be delayed, but summarily decided. And the new Expositor of law termes, speaketh to the like effect, *verbo Them.* I read it also in an old paper written by an Exchequer man thus translated: *Theam. i. propago villanorum.*

Teller, is an officer in the Exchequer, of which sort there bee foure in number. And their office is, to receive all monies due to the King, and to give to the Clerk of the Pell a bill to charge him therewith. They also pay to all persons, any money payable unto them by the King, by warrant from the Auditour of the receipt. They also make weekly and yearly bookes, both of their receipts and payments, which they deliver to the Lord Treasurer.

Templers (Templarii) See *Knights of the Temple*. These whilst they flourished here in England, which seemeth to be all that time betweene *Henry* the seconds dayes, untill they were suppressed, had in every nation a

particular Governour, whom *Bract.* calleth *Magistrum militia Templi: lib. i. c. 10.* Of these read *M. Camden* in his *Br. p. 320.* See *Hospitalers.*

Temporalities of Bishops (Temporalia Episcoporum) bee such revenues, lands, and tenements, as Bishops haue had laid to their Sees by the Kings and other great personages of this land from time to time, as they are Barons, and Lords of the Parliament. See *Spiritualities of Bishops.*

Tend, seemeth to signifie, as much as to endeavour, or offer, or shew forth, to tend the estate of the party of the Demandant, *old. nat. br. fol. 123. b.* to tend to travers. *Stawns. prerog. fol. 96.* to tend an avertment. *Brit. cap. 76.*

Tender, seemeth to come of the French (*Tendre. i. tener, delicatus*) and being used adjectively, signifieth in English speech, as much as it doth in French. But in our common law, it is used as a verb: and betokeneth as much, as carefully to offer, or circumspectly to endeavour the performance of any thing belonging unto us: as to tender rent, is to offer it at the time and place where and when it ought to be paid. To tender his law of *non Summons. Kitchin. fo. 197.* is to offer himselfe ready to make his law, whereby to proove that hee was not summoned. See *law.* See *make.*

Tenementis legatis, is a writ that lyeth to London, or other corporation, where the custome is, that men may demise tenements by their last will, as well as their goods and catels, to whom they list, for the hearing of any controversie touching this matter, and for the rectifying of the wrong, *Regist. orig. fol. 244. b.*

Tenant, alias, *tenent*, (*tenens*) commeth either of the Latine (*tenere*) or of the French (*tenir*) and signifieth in our common Law, him that possesseth lands, or tenements by any kind of right, bee it in fee, for life, or for yeares. This word is used with great diversity of Epithits in the Law, sometime signifying or importing the efficient cause of possession, as *tenent in Dower*: which is shee, that possesseth land, &c. by vertue of her Dower. *Kitchin, fol. 160.* *Tenant per statute Merchant. Idem fol. 172.* that is, hee that holdeth land by vertue of a Statute forfeited unto him. *Tenant in frank mariage. Kitchin, fol. 158. viz.* hee that holdeth land or tenement by reason of a gift thereof made unto him upon mariage, betweene him and his wife. *Tenant by the courtesie. Idem fol. 159.* i. hee that holdeth for his life by reason of a child begotten by him of his wife being an inheritrix, and borne alive. *Te-*

nant per elegit. Idem, fol. 172. i. hee that holdeth by vertue of the writ termed *Elegit. Tenant in mortgage, Idem, fol. 38.* is hee that holdeth by vertue of a mortgage or upon condition, that if the lessour pay so much money at such a day, that hee may enter, and if not, that the lessee shall haue a fee simple, fee tayle, or free hold. Sometime these Epithites import the manner of admittance: as *Tenant by the verge in ancient demesne. Idem, fol. 81.* is hee that is admitted by the rod in a Court of ancient demesne. Sometime the evidence, that hee hath to shew for his estate: as *Tenant by copie of Court rolle*, which is one admitted *Tenant* of any lands, &c. within a manour, that time out of the memory of man, by the use and custome of the said manour have bene demisable, and demised to such as will take the same in fee, fee-tayle, for life, yeares, or at will, according to the custome of the said maner. *West. parte prim. sym. lib. 2. se. 646.* whom read more at large. Againe, *Tenant by charter*, is hee that holdeth by feofment in writing or other deed. *Kitchin, fol. 57.* Sometime these Epithites signifie that duetic which the tenant is to performe by reason of his tenure. As *Tenant by Knights service, Tenant in socage, Tenant in burgage, Tenant*

in frank fee, Tenent in villenage. Sometime they import the estate of the tenent, or his continuance in the land, as tenent in fee simple, *Kitchin, fol. 150.* Tenent in fee taile, *Idem, fol. 153.* Tenent for life, and tenent for yeares: *Idem, fol. 163.* Tenent at the will of the Lord according to the custome of the maner. *Idem, fo. 132. & 165.* Tenent at will by the common law. *Idem, eodem.* Tenent upon sufferance. *Idem, fol. 165.* Tenent of state of inheritance, *Stawnsford, prerog. fol. 6.* Sometime they containe a relation toward the Lord, of whom he holdeth as tenent in chiefe, i. hee that holdeth of the King in the right of his Crowne, *Fitzh. nat. br. fol. 5. F.* Tenent of the King, as of the person of the King. *Idem, eodem.* or as of some honour: *eodem:* Very tenent, i. he that holdeth immediately of his Lord, *Kitchin, fol. 29.* For if there be Lord *Mesne*, and Tenent, the Tenent is very Tenent to the *Mesne*, but not to the Lord above. Tenent *paravaile*, *pl. cor. fol. 197. & Fitzh. nat. br. fo. 136. D.* is the lowest Tenent, and farthest distant from the Lord Paramount. It seemeth to be Tenent *per availe*. See *Dyers Commentaries, fo. 25. nu. 156.* No tenent in right to the Lord, but tenent as for the avowrie to be made, *Littleton, fol. 96.* Sometime they

have a relation betweene Tenents, and Tenents in severall kinds, as joynt tenents, i. they that have equall right in lands and tenements, and all by vertue of one title, *Littleton, lib. 3. ca. 3.* Tenents in common, bee they that have equall right, but hold by divers titles, as one or more by gift or descent, and others by purchase. *Idem, eodem, cap. 4.* Particular tenent, *Stawnsford, prerog. fol. 13.* that is, hee which holdeth onely for his terme, as tenent in dower, tenent by the courtesie, or otherwise for life, *West, parte 2. Symbol. titulo Fines. Sect. 13. G.* See anno 32. *H. 8. ca. 31.* and *Coke* in *Sir William Pelhams case. lib. 1. fol. 15. a.* they be termours for yeares or life. See *Plowden casu Colthirst. fol. 23. b.* Sole tenent, *Kitchin, 134. i.* hee that hath none other joynd with him. If a man and his wife hold for both their lives, and the man dieth, hee dieth not sole tenent, *Idem, eodem.* Severall tenent, is opposite to joynt tenents, or tenents in common. See *Severall tenencie.* Tenent *al praepe*, is hee, against whom the writ (*Praepe*) is to be brought. *Cokes Reports, lib. 3. The case of Fines, fo. 88 a.* Tenent in demesne, anno 13. *Ed. 1. cap. 9. anno 32. H. 8. cap. 37.* is hee that holdeth the demeanes of a maner for a rent without service. Tenent in service,

service, *anno 20. Ed. 1. stat. 1.* is hee that holdeth by service, *v. Britton, cap. 79. in principio, & cap. 96. Carfealte, &c. vel quare* whether hee may be termed tenant in demesne, that holdeth some of the demeanes howsoever, and hee Tenant in service, which is a Free-holder to a manner, holding by service, for the free-holds of a maner are not accounted of the demesne, but onely that which the Lord keepeth in his owne hand, or letteth out by copie, according to the custome of the maner. Tenant by execution, *anno 32. Henry 8. cap. 5.* is hee that holdeth land by vertue of an execution upon any statute, recognisance, &c.

Tendeheved (*decanus, vel caput decem familiarum*) of this see *Roger Hoveden, parte poster. suorum annalium, fol. 346. a.* See *Frankpledge.*

Tenement (*tenementum*) is diversly used in the common law, most properly it signifieth a house, or home Stall: but in a larger signification it is taken for either house or land that a man holdeth of another. And joyned with the Adjective (*Frank*) in our Lawyers French, it contained generally lands or houses, yea or offices, wherein wee have estate for terme of life, or in fee. And in this significa-

tion, *Kitchin, fol. 41.* maketh frank tenement, and base estate, opposite the one to the other. In the same sort doth *Britton* use it, through his whole 27. chapter, as also *Bracton* doth the Latine (*liberum tenentium*) *li. pri. cap. 5, & 6.* and many other places.

Tenantibus in assisa non onerandis, &c. is a writ that lieth for him to whom a disseisour hath alienated the land whereof hee disseised another, that hee be not molested for the damages awarded, if the *Disseisour* have wherewith to satisfie them himselfe, *Reg. orig. fol. 214. b.*

Tenths (*Decima*) is that yearly portion or tribute, which all Livings Ecclesiasticall doe yield to the King. For though the Bishop of Rome doe originally pretend right unto this revenue, by example of the High Priest among the Iewes, who had tenths from the Levites, *Numb. cap. 8. Hieronimus in Ezechielem.* Yet I reade in our Chronicles, that these were often granted to the King by the Pope, upon divers occasions, sometime for one yeare, sometime for more, untill by the statute, *anno 26. Hen. 8. cap. 3.* they were annexed perpetually to the Crowne. See *Disms.* It signifieth also a taske levied of the temporaltie. *Holinshed, H. 2. fo. III.*

Tenore indictamenti mittendo, is a writ whereby the Record of an indictment, and the proceſſe thereupon, is called out of another Court into the Chancerie, *Regiſt. orig. fol. 169. a.*

Tenure (Tenura) commeth of the Norman (*Tenure*) as appeareth by the Grand Cuſtumarie; *cap. 28.* where it is defined to this effect: *Tenure* is the manner, whereby Tenements are holden of their Lords. What may make a *Tenure*, and what not, ſee *Perkins Reſervations, 70.* And in that chapter ſhall you find the moſt of thoſe *Tenures* recited, that be now uſually in England. In Scotland I find that there be foure manner of *Tenures*, which they call holding of land; the firſt is *pura eleemoſina*, which is proper to ſpiritual men, paying nothing for it, but *devota animarum ſuffragia*: the ſecond they call *Few*, or *Few ferme*, which holdeth of the King, Church, Barons, or others, paying a certaine dutie, called *Fendi firma*. The third is a hold in (*Blench*) as they terme it, by payment of a penie, roſe, paire of guilt ſpurs, or ſome ſuch like thing, if it be asked, in name of *Blench*, *id eſt, nomine alba firma*. The fourth is by ſervice of ward, and relieve, where the heire being *minor*, is in the gard or cuſtodie of his Lord, together with his

lands, &c. And land holden in this fourth maner, is called there *feudum de Hauberk*, or *Haubert*; or *feudum militare*, or *feudum Haubericum*, or *feudum lorica-tum*: becauſe it is given upon condition, that the vaſſall poſſeſſour thereof, ſhall come to the Hoſt with a Jack, or *Haubert*, which is a coat of Maile. *M. Skene de verb. ſignif. verbo Haubert. Tenure* in groſſe, is the *Tenure* in *capite*. For the Crowne is called a *Seignorie* in groſſe, becauſe it conſiſteth as a corporation of and by it ſelfe, not tied to any honour, or maner. See *Cromptons Jurisd. fol. 206.* See the new booke of *Entries, verbo Tenure.*

Termes (Terminus) ſignifieth with us commonly, the bounds and limitation of time: as a leaſe for terme of life, or terme of yeares, *Bracton, lib. 2. cap. 6. nu. 4.* But moſt notoriously it is uſed for that time, wherein the Tribunals, or places of Iudgement are open to all that liſt to complaine of wrong, or to ſeek their right by courſe of law, or action. The reſt of the yeare is called *Vacation*. Of theſe *Terms* there be foure in every yeare: during the which, matters of Juſtice (for the moſt part) are diſpatched. And this Sir *Thomas Smith lib. 3. de Rep. Ang. cap. 2.* reckoneth as miraculous: that in leſſe time then the third part of the yeare, three Tribunals,

nals, all in one Citie, should rectifie the wrongs of so large and populous a nation, as England is. Of these Termes, one is called *Hilary Terme*, which beginneth the 23. of Ianuarie, or if that be Sunday, the next day following, and endeth the 21. of Februarie. Another is called *Easter Terme*, which beginneth 18. daies after Easter, and endeth the Munday next after Ascension day. The third is *Trinity Terme*, beginning the Friday next after Trinity Sunday, and ending the Wednesday fortnight after. The fourth is *Michaëlas Terme*, beginning the 9. of October, or if that be Sunday, the next day after, and ending the 28. of November.

Termor (Tenens ex termino) is he that holdeth for terme of yeres or life, *Kitchin, fol. 151. Littleton, fol. 100.*

Terra extendenda, is a writ directed to the Escheatour, &c. willing him to inquire and find the true yearely value of any land, &c. by the oath of twelve men, and to certifie the extent into the Chancerie, &c. *Register orig. fol. 293. b.*

Terris, bonis & catallis rehabendis post purgationem, is a writ that lieth for a Clerke to recover his lands, goods, or chatels formerly seised on, after he hath cleared himselfe of that felonie, upon suspicion whereof he was formerly

convicted, and delivered to his Ordinarie to be purged, *Register orig. fol. 68. b.*

Terris liberandis, is a writ, that lieth for a man convicted by attaint, to bring the Record and Proesse before the King, and to take a fine for his imprisonment, and to deliver him his lands and tenements againe, and to release him of the *Strip* and *Waste*, *Regist. orig. fol. 232. a.* It is also a writ for delivery of lands to the heire after homage, and reliefe performed; *eodem fol. 293. b.* or upon securitie taken, that hee shall performe them, *eodem, fol. 313. b.*

Terris & catallis tentis ultra debitum levatum, is a writ Iudiciall, for the restoring of lands or goods to a debtour that is distressed above the quantitie of the debt, *Register Iudiciall, fol. 38. b.*

Terretenent (terratenus) is hee which hath the naturall, and actual possession of the land, which we otherwise call the occupation, *anno 39. Eliz. cap. 7.* For example, a Lord of a maner hath a Freeholder, who letteth out his free land to another to be occupied: this occupier is called the *Terretenent*, *West, parte 2. symb. tit. Fines. Sect. 137. Cromptons Iurisd. fol. 194. Britton, cap. 29. Perkins seofments, 231. And Petrus belluga in speculo Principum,*

pum. Repub. 46. versiculo, Restat videre num. 9. useth this word *Terratenentes* in the same signification. See *Land tenents*. Yet I haue heard some learned in the Law say, that the *Tertenent*, is the tenent in free, or copyhold, according to the custome of the manner, and opposite to tenent for terme of yeares *Quere.*

Ters, is a certaine measure of liquide things, as wine, oyle, &c. containing the sixth part of a Tunne, *anno 32. H. 8. cap. 14.* or the third part of a pipe.

Testament, (testamentum.) See *Will.*

Testatum, is a writ that seemeth especially to lye against great personages of the Realme, whose bodies may not bee medled with in actions of debt. And therefore if the Sheriffe returne (*nihil habet in balliva mea*) in a case of execution, another writ shall bee sent out into any other Countie, where such personage is thought to haue whence to satisfie, which is termed a *Testatum*, because the Sheriffe hath formerly testified, that hee found nothing in his Bayliweeke to serue the turne. See *Kitchin* in his Returnes of writs, *fol. 287. b.*

Teste, is a word commonly vfed for the last part of any writ: so called, because the very conclusion of every writ wherein

the date is contained, beginneth with these words (*teste meipso, &c.* If it be an originall writ, or if iudiciall, *teste Thom. Fleming, or Edouardo Cooke*, according to the Court whence it commeth. Where I may note by the way, that in *Glanvilo, lib. pri. cap. 6. & 13. & lib. 2. cap. 4.* I find the forme of an originall writ in the last clause to bee (*teste Ranulpho de Glanvilla apud Clarindon, &c.* And diuers times in the Register. orig. *Teste custode Anglie*: as namely, in the title *Prohibition, fol. 42. a.* and *Consulation, fol. 54. b.*

Thanus, is a made latine word of the Saxon (*thegn*) which cometh of (*thenian*) i. *alicui ministrare.*) It signifieth sometime a Noble-man, sometime a free man, sometime a Magistrate, sometime an Officer, or Minister. *Lamb.* in his Explication of Saxon words: *verbo thanus.* See the place. See *Vavasour. M. Skene de verbor. significat* saith, it is the name of a dignity, and appeares to bee equall with the sonne of an Earle. And *Thanus* was a Freeholder holding his lands of the King. And a man not taken with the *sang* (that is, with the manner, as wee say) accused of theft, no sufficient prooffe being brought against him, must purge himselfe by the oath of seven and twenty men, or of 3. *Thanes. Thana-*

nagium Regis, signifieth a certaine part of the Kings lands, or propertie, whereof the rule and government appertaineth to him, who therefore is called *Thannus*. For *Domania Regis*, and *Thanagia*, idem significant. It is a Dutch word: For (*teiner*) signifieth a servaant, and *teinen* to serve. And *thane* is likewise a servant, and *under-thane*, an inferiour *thane* or subject. Thus farre *M. Skene*.

Thack tile, anno 17. *Edw. 4. cap. 4.* other wise called *plaine tyle*, is that tile which is made to be layed upon the side, and not upon the rudge of a tyled house, anno 17. *Ed. 4. cap. 4.*

Theam. See *Team*.

Theft (*furtum*) is an unlawfull felonious taking away of another mans moveable, and personall goods against the owners will, with an intent to steale them. *West. parte 2. symbol. titulo Inditaments*, sect. 58: where also hee saith, that theft is from the person or in presence of the owner, or in his absence. Theft from the person or in presence of the owner, is of two sorts: the one putting the owner in feare, the other not. *Idem, eodem*, sect. 59. The former is properly called *Robberie*, *ibid. sect. 60*. The new Expounder of law termes, *verbo Larcenie*, divideth theft into theft so simply called, and pe-

tit or little theft. Whereof the one is of goods above the value of twelue pence, and is felonye, the other under that value, and is no felonye. But see *Felonie*.

Theftbote, is made of (*theft*) and (*boote*) i. *compensatio*, and signifieth properly the receiving of goods from a theefe, to the end to favour, and maintaine him. The punishment whereof is ransom and imprisonment, and not losse of life and member. *Stawns. pl. cor. lib. prim. cap. 43*. And the mirrour of Iustices, *lib. 2. cap. des peches criminels al sute le Roye*. And yet hee there maketh mention of a Record alledged, which testified a judgement of life and member given in this case.

Thegue. See *Thamus*, and *Thingus*.

Them. See *Team*. It signifieth *acquietantiam amerciamenorum sequela propriorum servorum*. *Fleta, lib. prim. cap. 47. sect. Theme*.

Thelonium. See *Tholle*, and *Tholonium*, and *Tolle*.

Theolonio rationabili habondo pro Dominis habentibus Dominica Regis ad firmam, is a writ, that lyeth for him, that hath of the Kings demesne in fee ferme, to recover reasonable tolle of the Kings tenants there, if that his demesne haue bene accustomed

to be tolled. *Register, orig. fo. 87. b.*

Thingus. Cromptons Inrid. fol. 197. seemeth to bee used for the Saxon *Thegne*. See *Thanus*. His words are these, speaking of a Charter or Graunt made by a Lord of a Forest: *Sciatis me concessisse omnibus militibus, & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster, quòd possunt. &c.* *Fleta* writeth it *Tlein*, and faith, *quòd significat liberum*.

Then, significat *servum*. *Fleta, lib. prim. cap. 47.* See *Thanus*, and *Thingus*.

Thridborow, is used for a Constable, *anno 28. Hen. 3. cap. 10.* which also is noted by *M. Lambert* in his Tractate intituled: *The dutie of Constables, pag. 6.* which seemeth to bee corruptly used for the Saxon (*freoborh. i. ingenuus fidejussor*), or (*freborlesheofod. i. vas primarius*) *Idem*, in his explication of Saxon words, *verbo, Centaria*.

Thrid with hawan man (*trium noctium hospes*) who if he did any harme, his host, by the lawes of Saint Edward, and of the Conquerour, was answerable for the harme. *Rogerus Hoveden parte poster. suorum annal. fol. 345.*

Thokei of fish, anno 22. Ed. 4. cap. 2.

Tholl (*Thollonium*) est *libertas emendi, & vendendi in terra sua*. *Archaimom. Lam. fol. 132.* See *Toll*.

Thrase of corne, anno 2. Hen. 6. cap. 2. consisteth of two shookes: and every shooke containeth fixe sheeves. It seemeth to be a word proper to the North parts.

Thrimsa, commeth of (*Threo*) that is three, and signifieth a peece of money of three shillings. *Lamb. explaca. of Saxon words, verbo Thrimsa.*

Tilsen of saten, anno 1. Hen. 8. cap. 14.

Tincell, commeth of the french (*Estincelle. i. scintilla*) or the verbe (*Estinceller. i. scintillare*) It signifieth with us a stuffe or cloath made partly of silke, and partly of gold or silver so called, because it glistereth or sparkeleth like starres.

Tissu, is a French word signifying as much as (woven) Cloath of Tissue, with us cloath of silke and silver, or of silke, and gold woven together.

Tithe (*Decima*) seemeth to be an abbreviat of (tything) being the Saxon (*Teothung*) a little altered, which signifieth *Decuriam*, *Lamb. explication of Saxon words, verbo Decuria*. It signifieth in our common law, the tenth part of all fruits prediall, or personall, which bee due to God, and so consequently to his Minister, toward the recompence of his paines taken in instructing his charge, how to

live after Gods commandements, and his continuall intercession that hee doth or ought to make unto God for their both spirituall and temporall blessings, *Levit. cap. 27. versu 30.* I say the tenth part, though *Covarruvias* with other learned Canonists and Schoolemen, hold the rate of tithes, not to bee necessarily the tenth part of the fruites by the morall Law of God. Yet the better and more Theologicall opinion is, that they are all deceived, and that from their errour hath sprung much wrong to Almighty God, and great mischiefe to his Church: and that by the law of God and nature, no contrary custome ought to last any longer, then the Parson and Parishioner shall both thinke well of it. Wherefore those customes of paying a halfe penny for a Lambe, or a penny for a Calfe by such as have under seven in one yeare, how long soever it hath indured, is but very unreasonable in these dayes, when both Lambs and Calves are growne foure times dearer, and more then they were when this price was first accepted. And therefore no man dischargeth well his conscience in this point that payeth not duly the tenth of every Lambe, every Calfe, and every other thing ritheable. For

by this course the Minister fa-
reth well or evill in a propor-
tion with his Parishioner, as it
pleaseth God to give increase,
whereas by any other order the
one or the other shall finde
want of indifferencce, as the
prices of things shall rise or
fall.

Tithing (*Tithingum*) is the
Saxon word *Teothung* for the
which see (*Tithe*) It signifieth
(as *M. Lamberd* saith in his due-
tie of Constables) the number or
company of ten men with their
families, cast or knit together in
a society, all of them being
bound to the King for the
peaceable and good behaviour of
each of their society. Of these
Companies was there one chiefe
or principall person, who of his
office was called (*Toothung-man*)
at this day in the West parts (*Ti-
thingman*) but now hee is nothing
but a Constable. For that old dis-
cipline of Tithings is left long
sithence. It signifieth also a court,
*Anno 23. Ed. 3. cap. 4. & anno 9.
H. 3. cap. 35.* See *Chiefe Pledge*
and *Franke Pledge*, and *Decennier*.
Tithing is used for a Court. *Mag-
na charta, cap. 25.* and *Merton,
cap. 10.*

Todde of wooll, is a quantity
containing 28. pound in weight,
or two Stone.

Toft (*Toftum*) is a place,
wherein a mesuage hath stood

West, parte 2. symbol. titulo Fines. Sect. 26.

Toile, commeth of the French (*Toile, i. tela*) and signifieth with us a net or cord to compasse or take Deere.

To lange and to bred. See Bred.

Tolle, (*Tollere*) as it is a verbe, signifieth to defeat or take away, anno 8. H. 6. cap. 9.

Toll, aliàs *Thol* (*Tolnetum*, aliàs *Theolonium*) is a Saxon word, and hath in our common law two significations: first it is used for a libertie to buy and sell within the precincts of a maner, *Lamb. Archainom. fo. 132.* which seemeth to import so much as a Faire or Market. The words be these: *Thol (quod nos dicimus Theolonium) est scilicet quod habeat libertatem vendendi & emendi in terra sua.* In the second signification it is used for a tribute or custome paid for passage, &c. as in *Bracton: Si cui concedatur talis libertas quod quietus sit de Theolonio & consuetudinibus dandis per totum Regnum Anglia in terra & mari, & quod Theolonium & consuetudines capiat infra libertatem suam de eumentibus & vendentibus &c. lib. 2. cap. 24. num. 3.* But even there in the end of the second number hee hath this word, *Toll* (as it seemeth) in the former signification also, which by these words above written following a little after, he inter-

preteth to be a libertie as well to take, as to be free from *Tolle*. The made Latine word (*Theolonium*) *Cassanauus in consuet. Burgund. pag. 118.* deriveth a (*Tollendo*) but I rather thinke it cometh from the Greeke (*τελωνια*) or (*τελωνεια*) i. *uestigialium redemptio, vel etiam uestigialium exactio*) *Fleta* hath these words of it: *Toll significat acquietantium Theolonii ubiq; in Regno, lib. pri. cap. 47. M. Skene de verb. signif. verbo Toll, saith it is a custome, and that it cometh from the Greeke word of the same signification (τελϷ) and that hee who is incoffed with Toll, is custome free, and payeth no custome: which is manifest by sundrie old bookes, wherein it is written: Toll, hoc est, quod vos & homines vestri de toto homagio vestro sint quieti de omnibus mercantibus, & de Tolneto, de omnibus rebus emptis & venditis* Thus farre hee. *Kitchin, fol. 104.* maketh mention of tolle through, and tolle travers, his words be to this effect. Custome or prescription to have tolle through in the High way, is not good: for it is against the common right. But to have prescription of tolle travers, is good. In which place the difference betweene the one, and the other the new expositor of Law Termes saith to be, that tolle travers is that monie, which

is taken for passing over a private mans ground. But this Author seemeth to differ from *Kitchin* touching the lawfulness of tolle, through saying, that by reason of a Bridge provided at the cost and charge of the towne, for the ease of Travellers, hee thinketh it reasonable, that tolle through be exacted toward the maintenance therof: which writer also maketh mention of tolle Turn: and that hee defineth to bee tolle paid for beasts driven to be sold, though they be not sold indeed. Where, I thinke, hee must meane a tolle paid in the returne homeward from the Faire or Market, wheiher they were driven to be sold. *Plowden, casu Willion, fol. 236.* agreeth in this definition of tolletravers. And this the Feudists call *Parangariam*, defining it to be *Sumptus & labores ferendi referendive alicujus causa à principe impositi, cum non per viam, sed aliò versum iter suscipitur. l. 2. Cod. de Episc. & cleri à graco (καρπυζαγεια) l. 1. transitus per viam transversam. Gothofred. ad l. 4. §. 1. de vetera.* I find in *Andrew Horns mirror of Iustices, lib. 1. cap. des articles, &c.* that by the ancient law of this land, the buyers of corne or catell in Faires or Markets, ought to pay tolle to the Lord of the Market, in testimonie of their contract there law-

fully made in open Market: for that privie contracts were held unlawfull.

Toloncum or *Breve de essendæ quietum de Telonco*, is a writ that lieth in case, where the Citizens of any Citie, or Burgeses of any Towne, be quit from tolle by the grant of the Kings Predecessors, or prescription: which you have at large in *Fitzh. nat. br. fo. 226.* See *Telonium*.

Toli (*Tolta*) is a writ whereby a cause depending in a Court Baron, is removed into the Countie court. *Old nat. br. fol. 2.* The reason of the appellation seemeth to come from the verbe (*Tollo*) *v. Coke, lib. 3. in prefatione ad iectorem.*

Tonne. See *Tunne*.

Tonnage, is a custome or impost due for merchandise, broughr or caried in Tuns and such like vessels, from or to other nations after a certain rate in every Tun, *an. 12. Ed. 4. ca. 3. anno 6. H. 8. ca. 14. & anno pri. Ed. 6. ca. 13. anno pri. Jacobi, ca. 33.* I have heard it also called a dutie due to the Mariners for unloading their Ship arrived in any Haven after the rate of every Tun.

Torny. See *Turney*.

Totted, *anno 42. Ed. 3. ca. 9. & anno 1. Ed. 6. ca. 15.* is a word used of a debt, which the forreign Apposer, or other officer in the Exchequer noteth for a good

debt to the King by writing this word (*Tot*) unto it.

Tourn. See *Turn*.

Tout temps prist & uncore est, that is to say in English, Alway readie and is at this present: This is a kind of Plee in way of excuse or defence unto him that is sued for withholding any debt, or dutie belonging to the Plaintiffe. See of this, *Broke his Abridge-ment*, fol. 258.

Traile baston. See *Iustices of triall baston*.

Traitor (*traditor, proditor*) See *Treason*.

Transgression, is a writ, called commonly a writ or action of trespassse. Of this *Fitzherbert* in his *Natura brevium*, hath two sorts: one *Vicouniel*, so called, because it is directed to the Sheriffe, and is not returnable, but to be determined in the Countie: The forme wherof differeth from the other, because it hath not these words: *Quare vi & armis, &c.* and this see in *Fitzherberts natura brev.* fol. 85. G. The other is termed a writ of trespassse upon the case, which is to be sued in the common Banke, or the Kings Bench, in which are alwaies used these words, *vi & armis, &c.* And of this you have *Fitzherberts nat. brev.* fol. 92. E. See *Trespas*. See the divers use of this writ in the *Register originall*, in the Table.

Transcript, anno 34. & 35. H. 8. cap. 14. is the copie of any originall written againe, or exemplified.

Transcripto Recognitionis facta corā Iusticiariis itinerantibus &c. is a writ for the certifying of a Recognizance, taken before Iustices in *Eyre*, into the Chancerie, *Regist. orig. fol. 152. b.*

Transcripto pedis finis levati mittendo in Cancellarium, is a writ for the certifying of the foot of a fine levied before Iustices in *Eyre*, &c. into the Chancerie, *codem. fol. 169. & Register judicial. fol. 14.*

Travers, commeth of the French (*Traverser* i. *transfigere*) It signifieth in our common law sometime to denie, sometime to overthrow, or undoe a thing done. Touching the former signification, take these words in *Vests Symbol. parte 2. titulo Chancerie, Sect. 54.* An answer (saith hee, speaking of an answer to a bill in Chancerie) is that, which the Defendant pleadeth, or saith in Barre to avoid the Plaintiffes bill, or action, either by confession and avoiding, or by denying and traversing the materiall parts thereof. And againe, *Section 55.* A replication is the Plaintiffes speech or answer to the Defendants answer, which must affirme and persue his bill, and contest

and avoyde, deny or traverse the Defendants answer. And the formall words of this travers are in Lawyers French (*sans ceo*) in Latine (*absque hoc*) in English (without that.) See *Kitchin fol. 227. titulo Affirmative & Negative*. In the second signification I find it in *Stawnsfords prerog. cap. 20.* through the whole Chapter, speaking of traversing an Office: which is nothing else, but to prove, that an Inquisition made of goods or lands by the Escheatour, is defective and untruly made. So traversing of an Inditement, is to take Issue upon the chiefe matter thereof: which is none other to say, then to make contradiction, or to denie the poynt of the Enditement. As in presentment against *A.* for a high way overflowne vvith vvater for default of scowring a ditch, vvhich he and they whose estate hee hath in certaine land there, have used to scowre and cleanse. *A.* may traverse either the matter, *viz.* that there is no high vvay there, or that the ditch is sufficiently scovvred: or otherwise he may traverse the cause, *viz.* that hee hath not the land, &c. or that he and they whose estate, &c. have not used to scowre the ditch. *Lamb. Eirenarcha. lib. 4. cap. 13. pag. 521.*

522. Of *Traverse*, see a vvhole Chapter in *Kitchin, fol. 240.* See

the new booke of Entries. *verbo, Traverse.*

Treason, (traditio, vel proditio) commeth of the French (*trahison*, i. *proditio*) and signifieth an offence committed against the amplitude and Majestie of the Common-vvealth. *West. parte secund. symbol. titulo Inditements. sect. 63.* by vvhom it is there divided into High treason, which other call *aliam proditionem*, and Petit treason. High treason he defineth to bee an offence done against the securitie of the Commonwealth, or of the Kings most excellent Majestie: whether it bee by imagination, word, or deed: as to compasse or imagine Treason, or the death of the Prince, or the Queene his Wife, or his Sonne and heyre apparent, or to deflowre the Kings vvife, or his eldest Daughter unmarried, or his eldest sonnes Wife: or levie war against the King in his Realme, or to adhere to his enemies, aiding them, or to counterfeit the Kings Great Seale, privie Seale, or money, or wittingly to bring false money into this Realme counterfeited like unto the money of *England*, and utter the same: or to kill the Kings Chancellor, Treasurer, Iustice of the one bench, or of the other, Iustices in *Eyre*, Iustices of Assise, Iustices of *Oyer* and *Terminer*, being in his place, & doi g

of his office, *anno 25. Ed. prim. cap. 2.* or forging of the Kings seale Manuell, or privie signet, privie seale, or forraine coine current within the Realme, *anno 2. Mar. cap. 6.* or diminishing or impairing of money current, *an. 5. Elizab. ca. 11. & anno 14. El. ca. 3. & 18. Elizab. ca. pri.* and many other actions which you may read there and in other places particularly expressed. And in case of this treason a man forfeiteth his lands, and goods to the King onely. And it is also called treason Paramount, *anno 25. Edw. 3. cap. 2.* The forme of Iudgement given upon a man convicted of high treason is this. The Kings Sergeant after the verdict delivered, craveth Iudgement against the prisoner in the behalfe of the King. Then the Lord Steward (if the traytour haue bene noble) or other Iudge (if hee be under a Peere) saith thus: N. Earle of P. For so much as thou before this time hast bene of these treasons indited, and this day arraigned for the same, and put thy selfe upon God and thy Peeres, and the Lords thy Peeres haue found thee guilty, my Iudgement is that thou shalt from hence bee conveyed unto the Tower of London, whence thou camest, and from thence drawne through the midst of London to Tiburne,

and there hanged: and living thou shalt bee cut downe, thy bowels to bee cut out and burnt before thy face, thy head cut off, and thy body to bee divided in foure quarters, and disposed at the Kings Majesties pleasure: and God haue mercie upon thee.

Petit treason is rather described by examples, then any where logically defined: as when a servant killeth his master, or a wife her husband, or when a secular or religious man killeth his Prelate, to whom he oweth faith and obedience. And in how many other cases petit treason is committed, see *Cromptons Iustice of peace*. And this manner of treason giveth forfeiture of Elcheats to every Lord within his owne fee, *anno 25. Ed. 3. cap. 2.* Of treason see *Bracton, lib. 3. tract. 2. cap. 3. nu. pri. & 2.* Treason compriseth both high and petit treason, *anno 25. Ed. 3. stat. 3. cap. 4.*

Treasure trove (*Thesaurus inventus*) is as much as in true French (*Tresor trouve*) i. treasure found: and signifieth in our common law, as it doth in the civile law, *id est, veterem depositionem pecunia, cujus non extat memoria, ut jam dominum non habeat. l. 1. § 1. S. prim. & de acquir. rerum Dom.* Neere unto which definition commeth *Bracton, lib. 3. tract. 2. cap. 3. num. 4.* And this trea-

sure found, though the civill law doe give it to the finder, according to the law of nature; yet the law of England giveth it to the King by his Prerogative, as appeareth by *Bracton ubi supra*. And therefore as hee also saith in the sixth Chapter, it is the Coroners office to enquire thereof by the Countie to the Kings use. And *Stamford, pl. cor. lib. prim. cap. 42.* saith, that in ancient times, it was doubtfull, whether the concealing of treasure found, were felonie, yea or not: and that *Bracton* calleth it *gravem presumptionem, & quasi crimen furii*. But the punishment of it at these daies, as hee proveth out of *Fitzh. Abridgement. pag. 187.* is imprisonment, and fine, and not life and member. And if the owner may any way bee knowne, then doth it not belong to the Kings Prerogative. Of this you may reade *Britton* also, *cap. 17.* who saith, that it is every subjects part, as soone as hee hath found any treasure in the earth, to make it knowne to the Coroner of the Countie, or to the Bailiffes, &c. See *Kitchin* also, *fol. 40.*

Treasurer, thesaurarius, cometh of the French (*tresorier, i. quæstor, præfectus fisci*) and signifieth an Officer, to whom the treasure of another, or others, is committed to be kept, and truly

disposed of. The chiefeft of these with us, is the Treasurer of England, who is a Lord by his office, and one of the greatest men of the land: under whose charge and government is all the Princes wealth contained in the Exchequer, as also the checke of all Officers any way imployed in the collecting of the Imposts, Tributes, or other revenues belonging to the Crowne. *Smith de Repub. Anglor. lib. 2. cap. 14.* more belonging to his office, see *anno 20. Ed. 3. cap. 6. & anno 31. H. 6. cap. 5. & anno 4. Ed. 4. cap. prim. & anno 17. ejusdem, cap. 5. & anno prim. R. 2. cap. 8. & anno 21. H. 8. cap. 20. & anno pri. Ed. 6. cap. 13.* *Ockams Lucubrations* affirme, that the Lord chiefe Iustice had this authoritie in times past: and of him hath these words: *Iste excellens Sessor omnibus, quæ in inferiore vel superiore scacchio sunt, prospicit. Ad natum ipsius quolibet officia subiecta disponuntur: sic tamen ut ad Domini Regis utilitatem juste perveniant. Hic tamen inter cetera videtur excellens, quod potest his sub testimonio suo breve Domini Regis facere fieri, ut de thesauro quolibet summa liberetur, vel ut computetur quod sibi ex Domini Regis mandato præoverit computandum, vel si maluerit, breve suum sub aliorum testimonio faciet de his rebus.*

This high Officer hath by vertue of his office at this day, the nomination of the Eschetours yearly throughout *England*, and giveth the places of all Customers, Controulers, and Searchers in all the ports of the Realme. Hee sitteth in the Chequer Chamber, and with the rest of the court; ordereth things to the Kings best benefit. Hee with the Barons may by statute stall debts of three hundred pounds and under. And by Commission from his Majesty, hee with others joyned with him, letteth leases for liues or yeares, of the lands that came to the Crowne by the dissolution of Abbies. Hee by his office giveth warrant to certaine men to have their wine without impost. Hee taketh declaration of all the money paid into the Receipt of the Exchequer, and of all Receivers accompts.

Then is there a Treasurer of the Kings houshold, who is also of the Privie Councell, and in the absence of the Steward of the Kings houshold, hath power with the Controuler and the Steward of the Marshalsea, without commission to heare and determine treasons, misprisions of treasons, murder, homicide, and blood-shed, committed within the Kings Pallace. *St. wms. pl. cor. lib. 3. cap. 5.* In the statute,

anno 28. Rich. 2. cap. 18. & anno 11. Hen. 7. cap. 16. mention is made of the Treasurer of *Calis*. In *Westm. 2. cap. 8.* of the Treasurer of the Exchequer, & *anno 27. Ed. 3. stat. 2. cap. 18. & anno 35. Eliz. cap. 4.* Of the Treasurer of the Navie, or Treasurer of the wars, or garrisons of the Navie, *anno 39. El. cap. 7.* Treasurer of the Kings Chamber. *anno 26. H. 8. cap. 3. & anno 33. ejusdem cap. 39.* Treasurer of the warres, *anno 7. Hen. 7. cap. prim. anno 3. H. 8. cap. 5.* Treasurer of the Chauncerie. *West. parte 2. symbol. titulo Fines sect. 152.* Treasurer of the Kings Wardrobe, *anno 15. Edw. 3. stat. prim. cap. 3. & anno 25. ejusdem, stat. 5. cap. 21.* whose office you have well set forth in *Fleta, lib. 2. cap. 14.* Treasurer of the Countie for poore souldiers, *anno 35. Eliz. cap. 4.* And most Corporations through the Kingdome, haue an Officer of this name, that receiveth their rents, and disburseth their common expenses.

Treate commeth of the French (*trairre, i. emulgere*) and signifieth in the Common-law, as much as *taken out*, or *withdrawne*. As a Jurour was challenged, for that hee might not dispend 40. pounds, and for that cause hee was *treate* by the Statute, *old. nat. br. fol. 159.* that is, removed or discharged.

Bread of treatie, anno 51. H. 3. *Statute of bread*, &c. what it signifieth, I cannot learne.

Trespas (*Transgressio*) is a French word, signifying as much as *Mors, obitus, excessus*. The reason whereof I take to be, because in interpretation it is a passage from one place or estate to another: for in *Britton*, cap. 29. I find *trespassants for passengers*. In our common law and language, it is used for any transgression of the law, under treason, felonie, or misprision of treason, or of felonie, as may be gathered out of *Stawns. pl. cor. fol. 38.* where hee saith, that for a Lord of the Parliament to depart from the Parliament without the Kings license, is neither treason nor felonie, but trespassse. And againe, *fol. 31.* saying, that where it was wont before the Statute made, anno prim. Ed. 2. called *Statutum de frangentibus personam*, that the breach of prison was felonie, if it were the Kings prison: it is sithence but trespassse, except the prisoner were committed for felonie. But it is most commonly used for that wrong or dammage, which is done by a private man to the King, as in his *Forest, pl. cor. lib. 2. cap. 18.* or to another private man. And in this signification it is of two sorts: trespassse generall, other- wise termed, trespassse *vi & ar-*

mis: and trespassse especiall, other- wise called trespassse upon the case. And this seemeth to bee without force. Termes of the Law. Action upon the case, as appeareth by *Kitchin, fol. 176.* The former I take to be called generall, because it riseth from that generall ground in Law, that whatsoever is done by any private mans humour *vi & armis*, is an offence. The later I call especiall, because *Kitchin* calleth the other generall: and another reason may be this, because it springeth from a particular case or fact, not contained under any other generall head. And the action lying for this trespassse, is otherwise called an action upon the case, as may be gathered out of divers places under the title *Trespasse*, in *Brooke* his Abridgement. How to distinguish the forme of these writs or actions, See *Fitzh. nat. br. fo. 86. l. 1. & 87. H. 1.* in an action of trespassse, this is perpetuall, that the Plaintiffe sueth for damages, or the valew of the hurt done unto him by the Defendant. It seemeth an hard thing to distinguish these two kinds of trespassses so, as to be able to say when it is a trespassse *vi & armis*, and when upon the case: as may well appeare to him that shall peruse this title in *Brooke*. But this is to be left to the experience

of grave and skilfull Pleadere. I find moreover in *Kitchin. fo. 188.* that there is a *trespasse locall*, and *trespasse transitorie*: *trespasse locall* is that, which is so annexed to a place certaine, as if the Defendant joyne issue upon the place, and traverse the place, onely by saying, *Absque hoc*, that hee did the trespassse in the place mentioned in the declaration, and averre it, it is enough to defeat the action. *Trespasse transitorie* is that, which cannot be defeated by the Defendants traverse of the place, saying: Without that I committed the trespassse in the place declared: because the place is not materiall. Examples of both you have set downe by *Kitchin*, in the place above named, to this effect: traverse by (*Absque hoc*) of trespassse in batterie, or goods brought in, is transitorie, and not locall: as it is of trees cut, or herbes.

And therefore in trespassse transitorie, the place shall not make issue, neither is it traversable: no more then is a trespassse upon a case of an Assumption. *Bracton* in his fourth booke, cap. 34. nam. 6. divideth *transgressionem* in *majorem & minorem*: which place reade. See also great diversitie of trespassses in the new booke of Entries. *verbo Trespasse.*

Triall (triatio) is used in our

common law, for the examination of all causes civill or criminall, according to the lawes of our realme. Of this word *Stawne. pl. cor. lib. 2. cap. 26.* writeth to this effect. There was a statute made *prim. & secund. Philip & Mar. cap. 10.* to this purpose. And be it farther enacted by the authoritie aforesaid, that all trialls hereafter to be had, awarded or made for any treason, shall bee had and used according to the due order and course of the common lawes of this Realme, and not otherwise, &c. By this word (*triall*) saith *Stawne*, in that place, some understand as well the inquest that indicteth a man, as the enquest upon the arraignment, that attainteth or acquitteth him. For these two make but one intire Triall, that every man is to have, when hee is impeached of treason. But others have answered to this, that triall in common speech, is the triall that a man is to have, after hee is indicted, and not before. For in Law the Inditement is nought, but the accusation against him, which he is to make answer unto, and that being tried, it either attainteth, or acquitteth him. So that the triall is the issue, which is tried upon the inditement, and not the Inditement it selfe. For that is no part of the thing which trieth, but the thing which

is tried, and the offence. And so is this word Triall understood in the Statute, *anno 33. Henr. 8. cap. 23.* where it saith thus; Must bee indighted within the Shires or places, where they committed their offences, and also tryed by the Inhabitants, or Free-holders. So hee putteth a difference betweene Inditement and Tryall, as he doth also afterward in these words: There to bee indited and tryed of their offences, &c. Thus farre *Stawnsf. Sir Tho. Smith, de Repab. Anglo. lib. 2. ca. 5.* saith, that by order and usage of England, there are three trials, that is three wayes and manners, whereby absolute and definite Judgement is given by Parliament, which is the highest, and most absolute, by battell and great Assise: which hee severally describeth in three chapters following, though not so fully as the thing requireth. But of the great Assise, he speaketh at large in the three and twenty chapter of the same booke. And of these trials see more in *Stawnsf. pl. cor. lib. 2. cap. pri. 2. & 3.* whereof hee divideth the great Assise into two sorts: one proper to Barons of the Parliament, which is by 20. or 18. of their Peeres: the other common to others of lower condition, which is by 12. men, that be neighbours to the place where

the offence was committed, And of those you may reade him at large in the said Chapters there following. See *Twelve men.* See the *New Booke of Entries, verbo Triall.*

Trihing, (*Trihinga, vel Trihinga*) seemeth by a place in *Edward the Confessors Lawes*, set out by Master *Lamberd, num. 34.* to be the third part of a Shire or province, otherwise called (*Leeth*) which wee now call (*Leete.*) The same law doth *M. Camden* mention, *pag. 102. & 103.* This Court is above a Court Baron, and inferiour to the shire, or county. This word is also used in the sentence of excommunication upon the great Charter and Charter of the Forest, denounced in the dayes of *Edward the first*, as it is latined in the booke called *Pupilla oculi, parte 5. cap. 22. A. I.* in these words: *Visus autem de franco plegio sic fiat, sc. quod pax nostra teneatur, & quod Trihinga integra sit, sicut esse consuevit, &c.* Of this *Fleta, lib. 2. cap. 61. §. final.* writeth thus; *Sciendum est quod alie potestates erant super Wapentakiis, que Trihinga dicebantur, eo quod erat tertia pars provincie, qui vero super eas dominabantur, trihingreves vocabantur, quibus deferrebantur cause que non in Wapentakiis poterant desiniri in Schirra sicq. quod vocatur*

Hundredum, jam per variationem locorum & idiomatis, *Wapentakie* appellatur, & tria vel quatuor vel plura *Hundreda* solebant *trithinga* vocari: et quod in *trithingis* non poterant diffiniri in *shiram*. i. in comitatum deferrebat^{ur} terminandum. Modernis autem temporibus pro uno et eodem habentur apud homines *Hundreda Wapentakia* & *trithinga*. Learne whether those divisions in Yorke shire called ridings, be not *quasi trithings*. Of this *Roger Hoveden*, parte poster. suorum annal. fol. 346. b. hath the same words in effect.

Treswell of double soled shoes, anno 2, & 3. Ed. 6. cap. 9. which as I have heard, should rather be written *Creswel*, signifying the broad edge or verge of the shoe sole round about.

Tritie house, is a certaine house at *Deptford*, which belongeth to a Companie or Corporation of Sea-faring men, that have power by the Kings Charter, to take knowledge of those that destroy Sea markes, and to redresse their doings, as also to correct the faults of Saylers, &c. and to take care of divers other things belonging to Navigation, and the Seas. v. anno 8. Elizabeth, cap. 13. & anno 35. ejusdem, cap. 6.

Trink, is a kind of Net to fish withall, anno 2. H. 6. cap. 15.

Trionrs, be such as be chosen

by the Court to examine whether a challenge made to the panell, or any of the panell be just, yea or nor, *Broke*, titulo *Challenge*. fo. 122. and *Old nat. br.* fol. 158.

Tritis, alàs *Tristis*, is an immunitie from that attendance in the Forest, whereby every man dwelling in the Forest, is tied to be ready, holding of a Greyhound, when the Lord of the Forest is disposed to chase within his Forest, at such place as hee shall bee appointed, or else to be amerced for his default. *Mamood* parte pri. of his Forest lawes. pag. 86. and *Cromptons Jurisd.* fol. 193. & 197.

Tronage (*Tronagium*) is a kind of tolle, *Westm.* 2. cap. 25. anno 13. Ed. 1. taken (as it seemeth) for weighing. For I find in *Fleta*, lib. 2. cap. 12. §. Item *ulnas* that *trona* is a beame to weigh with. See *Weight*.

Trover, cometh of the french (*Trouver*. i. *Invenire*) It signifieth in our common law, an action which a man hath against one that having found any of his goods, refuseth to deliver them upon demand. See the new booke of *Entrica*, verb. *Trover*.

Troy weight (*Pondus Troia*) See *Weight*.

Tumbrell (*Tumbrellum*) is an engine of punishment, which ought to be in every libertie that hath view of Frankpledge,

for the correction of Scolds and unquiet women, *Kitchin, fo. 13. a.* New booke of Entries. *Franchise 2. & Quo warranto. 1.* See *Cucking stoole.*

Tunne, is a measure of Oile or Wine, containing twelve score and twelve Gallons, *anno 1. Rich. 3. cap. 12.* that is foure Hogf-heads.

Tunnage. See *Tonnage.*

Turbarie (*Turbaria*) is an Interest to dig Turves upon a Common, *Kitchin, fol. 94. Old natura brevium, fol. 70.* It commeth of the rude Latine word (*Turba*) which is used for a Turfe. *Lynd, in provin. de decimis cap. finali.*

Turmerick (*Turmerica*) is a certaine root of an herbe growing in *Arabia*, as I have beene informed, very wholesome for divers diseases in horses, and sometime used for man also in the case of laundies. It is reckoned among the garbeable drugs, *anno 1. Iaco. cap. 19.*

Turn (*Turnum*) is the Sheriffes Court, kept every yeare twice: once after Easter, and againe, after Michaelmas, *Magna Charta, caput 35.* and that within one moneth after each Feast, *anno 3. Ed. 3. ca. 15.* from this Court are exempted onely, Archbishops, Bishops, Abbots, Priors, Earles, Barons, all religious men, and women, and all such as have

Hundreds of their owne to bee kept. And these are not bound to appeare there except their appearance be espacially required upon some extraordinary cause, *anno 25. H. 3. cap. 10.* and *Britton, cap. 29.* It seemeth to bee called the *Sheriffes Turn* of the French word (*Tour, i. ambitus, circuitus, vicissitudo*) and is of *Britton* called *Tour, cap. 61. sub fine capitis*, as if wee would say (*The Sheriffe his course*) for (as *Britton* noteth in the said twentie nine chapter) that which before the Sheriffe, is called the *Sheriffes Turne*, is called in the Court of *Franchises* and *Hundreds*, the view of *Frank-pledge*: wherein inquirie is especially made of such as bee not in any Dozin: with whom *Fleta* agreeth: And by *Fleta* it appeareth that this Turne was the *Sheriffes* course to keepe his Court in everie Hundred, *lib. 2. cap. 52. in princip.* So that as the inferior Courts had their times to take knowledge of those, and other causes belonging to their cognisance: So the Sheriffe had his course or Turne to doe the like at these two severall seasons. That if there were any defects in them, it might be redressed in these, and Gods peace and the Kings so much the more carefully observed. This, as Master *Lambard* saith, was of old called also

also the Sheriffes moote, *lib. 4. cap. 4.* In this Court (as Britton saith *ubi supra*) the Sheriffe causeth to bee found out twelve of the most sage, loyall and sufficient men of all the Hundred (for hee kept his turne twice every yeare in each Hundred. *Magna charta, cap. 35. & Britton ubi supra*) whom hee charged upon their oathes, to present the truth touching the articles ministred unto them, and set downe by Britton in the same Chapter. This done hee put all other to their oathes, according to their dozins and villages, truly to present unto the former twelve all things concerning such articles, as by them they should bee asked of. But sithence the Hundred Courts are all called to the county by the statute, *anno 14. Edw. 3. cap. 3. Statut. pri.* these Turnes be likewise kept in one chiefe place of every shire, and not severally in every Hundred, as before they were. Of this you may reade more in Britton or in *Cromptons Jurisdiction, fol. 230.* and in the *Mirror of Iustices, lib. pri. cap. de Turnes.*

Turney (*Turneamentum*) cometh of the French (*Tourney. i. Decurorium*) It signifieth a martiall exercise of Knights or Souldiers fighting one with another in disport, and is thus de-

fined, *ca. felicis Extra de Torneamentis. Torneamenta dicuntur Nundina vel feria, in quibus milites ex condito convenire, & ad ostentationem virium suarum, & audacia, temerè congregi solent.* This word is used in the statute, *anno 24. Henric. octav. capit. 13.* and as I have heard, it signifieth with us in England those combats, that are made with arming swords on Horsebacke. And I thinke the reason of the name to proceed from the French (*Tourner. i. vertere*) because it consisteth much in agility both of horse and man.

Turno vececomitum, is a writ that lyeth for those that are called to the Sheriffes turne out of their owne Hundred. *Register, orig. fol. 174.*

Tuain nithes gest, (*hospes duarum noctium*) Roger Hoveden, parte poster. *suorum annalium, fol. 345. b.* who if he did harme to any, his hoste was not answerable for it, but himselfe. See *Thrid-nithes hawan man.*

Twelve men (*Duodecim homines legales*) is a number of twelve persons, or upwards to the number of 24. by whose discretion all tryals passe both in civill and criminall causes, through all Courts of the common law in this Realme. First for civill causes, when prooffe is made of the

matter in question, as the parties and their counsell thinke good, on both sides, the point of the fact, that they are to give their verdict of, is delivered likewise unto them, which wee call the issue: and then are they put in minde of their oath formerly taken, to doe right betwene party and party, and so sent out of the Court severally by themselves to consider upon the evidence of both sides, untill they be agreed; which done they returne to the Court againe, and deliver their verdict by the mouth of the foreman. And according to the verdict, Judgment afterward passeth, either condemnatory for the Plaintiffe, or absolutory for the Defendant. These twelve bee called twelve *milites*. *Glanvile, lib. 2. cap. 14 & 15.* and so bee they in *Braeton* divers times: but that word is altered.

In causes criminall there bee two sorts of Enquests, one called the grand Enquest, and the other the Enquest of life and death. The grand Enquest is so called, either because it consisteth commonly of a greater number then twelve, as of twenty foure, eightene, or sixteene at the least, or else because all causes criminall or penall first passe through them: whereas the other Enquest is especially appointed for

one or few matters touching life and death, committed to their considerations. Those of the grand Enquest are also called by *Braeton* 12. *milites lib. 3. tract. 2. cap. pri. num. 2.* because they were wont to bee Knights, as it seemeth, and not inferiours, except so many Knights could not bee found. *Idem eodem, num. 1. in fine.* And their function is to receive all presentments made unto them of any offence, and accordingly to give their generall opinion of the presentment by writing either these words (*Billa vera*) upon the Bill of presentment, which is an Inditement of the party presented: or else this word (*Ignoramus*) which is an absolving of him. Now as criminall causes bee of two sorts, either capitall touching life and member, or finable: so is there a double course of these Inditements. For in causes onely finable, the party indited must either travers the Inditement by denying it, and so it is referred to a petit Iury, whereby hee is either convicted or discharged of the crime, or else hee confessing it, the Court setteth his fine upon his head without more worke. But in matters of life and death, the party indited is commanded to hold up his hand, and answer (guilty) or (not guilty) if (guilty) he standeth convicted by his owne con-

fession : if (not guilty) he is farther referred to the Enquest of life and death : which consider upon the prooffe brought against the prisoner , and accordingly bring in their verdict, (Guilty) or (not Guilty) so is hee judged to dye, or delivered by the Court. Of this reade more in Inditement, Assise, Iury. See the statute, anno 35. H. 8. cap. 6. & 37. *ejusdem*, cap. 22. & anno 2. Ed. 6. cap. 32. & anno 5. El. cap. 25.

V A

Vacation (*vacatio*) hath an especiall signification in this Kingdome , being used for all that time respectively which passeth between terme and terme. at London. And when such times begunne and ended in our ancestors dayes, see Roger Hovedens *annals parte posteriori*, fol. 343. a. where you shall find that this intermission was called (*pax Dei & ecclesie*.)

Vaccarie, aliàs *vacharie* (*vaccaria*, aliàs *vacheria*) seemeth to be a house to keepe kine in, *Fleta*, lib. 2. cap. 41. §. Item *inquiratur* 11. and *Cromptons Jurisd.* fol. 194. in these words : without warrant no subject may have within the Forest a vacarie. But in the statute anno 37. H. 8. cap. 16. I find vacharie to bee, as it were a speciall proper name, of a certaine quantity and compasse of ground

within the Forest of *Asbedowne*.

Valeu (*valentia*, *valor*) The word is in it selfe plaine enough : But I cannot omitte one place in *M. West. parte 2. symbol. titulo Inditements*, sect. 70. *V. W.* touching the difference betweene value and price. These be his words. And the value of those things , in which offences are committed , is usually comprised in Inditements, which seemeth necessary in theft, to make a difference from petit larceny : and in trespassse, to aggravate the fault, and increase the fine. But no price of things, *scilicet natura*, may bee expressed, as of Deere, of Hares, &c. If they bee not in Parkes, and Warrens, which is a liberty, anno 8. Edward 4. fol. 5. nor of Charters of land. And where the number of the things taken are to bee expressed in the Inditement, as of young Doves in a Dove-house, young Haukes, in a wood, there must bee said (*pretii*) or (*ad valentiam*) but of divers dead things *ad valentiam* and not (*pretii*) of coine, not current, it shall bee (*pretii*) but of coine current, it shall neither bee said (*pretii*) nor (*ad valentiam*) for the price and value thereof is certaine. But of counterfeit coine, shall bee said (*ad valentiam*) and in counterfeit of coine shall not bee said (*decem libras in denariis*)

riis Domina Regina) nor (*in pecunia Domina Regina*) but (*ad instar pecunie Domina Regina.*)

Valour of marriage (*Valore maritaggi*) is a writ that lyeth for the Lord, having profered covenable marriage to the Infant, without disparidgement, against the Infant, comming to his yeares, if hee refuse to take the Lords offer. And it is to recover the value of the marriage, *Regist. orig. fol. 164. Old. nat. br. fol. 90.*

Variance, commeth of the French (*varier. i. alterare*) it signifieth in the Common-law, an alteration, or change of condition after a thing done. For example, the Communalty of a Towne make a composition with an Abbot. Afterward this towne by a graunt from the King obtaineth Bayliffes. This is a variance, and in this case, if the Abbot commence any suite for breach of the composition, hee must vary from the words of the Communalty set downe in the Composition, and begin against the Bayliffes and the Communalities. *Brooket. tit. Variance. fol. 292.* It is also used for an alteration of some thing formerly laid in a plee, which is easilier knowne what it is, then when it may bee used, as it appeareth by *Brooke* through the whole title afore-said: See *variance* in the new

booke of *Entries.*

Vassall, (*vassallus*) signifieth him, that holdeth land in fee of his Lord, *Hot. verbo Feudal*: wee call him more usually a Tenent in fee: whereof some owe fidelity and service, and are called *vassalli jurati*: some that owe neither, and are called *vassalli injurati*. But of this later sort, I thinke that in England wee have not any. Of these thus writeth *Hotom.* in his disputations upon the Feuds, *cap. 3. Proprie is vassa dicitur, qui ab Imperatore regale feudum accepit, vassallus autem* *επαχουστως* *diminutivo nomine qui ab illo feudale beneficium adeptus est: quasi qui in vassi fide & clientela est &c.* *M. Skene de verbor. signif. verb. Ligentia*, saith, that *vassallus* is divided into *Homologum*, & *non homologum*, *Homologus* is he that sweareth service with exception of a higher Lord: and *non homologus* is he that sweareth without exception, all one with *Ligeus*. And the same Author *verb. Vassallus*, saith, that it is *vassallus*, *quasi bassallus*, *id est, inferior socius*. From the French (*bas. i. humilis, dimissus*) and the Dutch word (*gesel. i. socius* :) his reason is, because the vassall is inferior to his master, and must serve and reverence him: and yet hee is in manner his companion, because each of them, is obliged

one to the other. He saith farther out of *Cujacius, lib. prim. de Fend.* that *leades, leodes, fideles, homines nostri, feudatarii, ministeriales, beneficiarii, beneficiati, vassalli*, signific almost all one thing. And a little after hee saith thus: In the lawes of the Feuds, *vassallus* is called *fidelis, quia fidelitatem iurat*. Amongst vassalls, the first place of dignitie is given to them that are *Duces, Marchiones, Comites*, and are called *Capitanei Regni*. The second is granted to Barons, and others of like estate, and are called *Valvasores Majores*. The third to them who are called *Gentlemen or Nobles*, holding of Barons; which also may have under them vassalls that be Gentlemen. And such vassalls holding in chiefe of Barons, are called *Valvasores Minores*. And they which hold of Gentlemen, are called *Vassalli, valvassini, seu minimi valvasores*. But in this Realme (hee speaketh of Scotland) they that hold of Barons, are called *Milites*, and they that hold of them, are called *Subvassores*. Thus far Master Skene.

Vasto, is a writ that lyeth for the heire against the tenant, for terme of life, or of yeares, for making waste, or for him in the Reversion or Remainder, *Fitzb. nat. br. fol. 55. Regist. orig. fol. 72. & 76. and Regist. Iudicial. fol. 17.*

21, 23, & 69. v. anno 6. Ed. pri. cap. 5.

Vavassour (*vavassor, aliàs, valvasor*) is one that in dignitie is next unto Baron. *Camden Britan. pag. 109. Bracton, lib. prim. cap. 8.* saith thus of this kind of men: *Sunt & alii potentes sub Rege, qui dicuntur Barones, hoc est, robur belli: sunt & alii qui dicuntur Vavassores, viri magna dignitatis. Vavassor enim, nihil melius dici poterit, quàm vas sortitum ad valetudinem.* *Jacobutius de Franchis in preludio Feudorum. tit. prim. num. 4. &c.* calleth them *Valvasores*, and giveth this reason of it: *Quia assident valva, i. porta Domini in festis, in quibus consueverunt homines currizare & eis reverentiam exhibere, propter Beneficium eis collatum, sicut libertus patrono: M. Camden in his Britan. pag. 108.* hath these words of them: *Primus etiam Normannorum temporibus, & Thani proximi à Comitibus in dignitate censebantur. Et valvasores majores (sivillis qui de feudis scribunt credimus) iidem fuerunt Barones.*

Venditioni expensas, is a writ Iudiciall, directed to the under-Sheriffe, commanding him to sell goods that hee hath formerly by commandment taken into his hands, for the satisfying of a judgement given in the Kings Court, *Register Iudiciall, fol. 33. b.*

Venire facias, is a writ Iudiciall, and goeth out of the Record, lying where two parties plead, and come to issue, *sc:* upon the saying of the Countrey. For then the partie Plaintiffe, or Defendant shall have this writ directed to the Sheriffe, that hee caute to come twelve lawfull men of the same Countrey, to say the truth upon the said issue taken. And if the Enquest come not at the day of this writ returned, then shall goe a *Habeas corpora*, and after a Distresse untill they come. *Old nat. br. fo. 157.* See how diversly this writ is used in the table of the *Register Iudiciall*. There is also a writ of this name, that is originall, as appeareth in the *Register orig. fol. 200. b.* which *M. Lamberd* in his Proceffes annexed to his *Eirenarcha* saith to be the common Proceffe upon anie presentment not being felonie, nor especially appointed for the fault presented by Statute. Whereof hee setteth downe an example in the same place. See also the new booke of Entries. *verbo Enquest. fol. 253. columna 1, 2, & 3.*

Venire facias tot matronas. See *Ventre inspiciendo*. See *Lamb. Eirenarcha, li 4. ca 14. pa 532.*

Venew (vicinetum) is taken for a neighbour, or neare place. As for example, twelve of the Assise ought to be of the same *Venew*

where the demand is made, *Old nat. br. fol. 115.* and in the statute anno 4. *H. 4. ca. 26.* & anno 25. *H. 8. cap. 6.* I find these words: And also shall returne in every such panell upon the (*venire facias*) six sufficient Hundreders at the least, if there be so many within the Hundred where the *Venew* lieth.

Ventre inspiciendo, is a writ for the search of a woman, that saith shee is with child, and thereby with-holdeth laud from him that is the next heire at the common law, *Register originall. fol. 227. a.*

Verdour (viridarius) commeth of the French (*verdeur. i. Saltuarius, vel custos nemoris*) hee is (as *M. Manwood, parte pri.* of his Forest lawes, pag. 332. defineth him) a Iudiciall officer of the Kings Forest, chosen by the King, in the full Countie of the same Shire, within the Forest, where hee doth dwell, and is sworne to maintaine, and keepe the Assises of the Forest, and also to view, receive, and inrolle the Attachements and Presentments of all maner of Trespasses of the Forest of vert, and venison. And the same Authour upon the first article of *Canutus* Charter, in the beginning of the same part, saith, that these in the Saxons times were called (*Pagened*) being foure in number, and they

chiefe men of the Forest, as then they were. Their Fee was in *Canonic* time, each of them everie yeare of the Kings allowance, two horses, one of them with a saddle, another of them without a saddle, one Sword, five Iavelins, one Speare, one Shield, and ten pounds in money. These foure (as appeareth by the said Charter, *num. 11.*) had *regalem potestatem*, and might proceed to a three-fold judgement: And if any man offered them, or any of them violence, if hee were a free man, hee should loose his freedome, and all that hee had: if a villein, hee should loose his right hand. And all the Officers of the Forest were to bee corrected and punished by them; *Ibidem, num. 10.* The verdour is made by the Kings writ, *Cromptons Iurisd. fol. 165.* the forme of which writ you have in *Fitzherb. nat. brev. fol. 164.* which is directed to the Sheriffe for the choise of him in a full Countie, by the assent of the said Countie. Yet if a verdour bee suddenly sicke or dead, at the time of the Iustice seate, a new may be chosen without a writ, *Manwood, parte prim. pag. 72.* the office is (as *Crompton* saith) *loco allegato*) properly to looke to the vert, and to see that it be well maintained. Also when any for-

fore the Foresters, or other ministers: the price thereof shall be delivered to the verdour, who is to answer for it before the Iustices in *Eyre*. And if hee die, his heire is chargeable therewith. *Crompton ibidem.* The forme of his oath at his admittance you may see in *Manwoods* first part of his Forest lawes: *pag. 51.* who there calleth him *verderour, alias, verditor*. You shall truly serve our Sovereigne Lord the King, in the office of a *verderer* of the Forest W. you shall to the uttermost of your power, and knowledge, doe for the profit of the King, so farre as it doth appertaine unto you to doe. You shall preserve and maintaine the ancient rights and franchises of his Crowne: you shall not conceale from his Majestie any rights or priviledges, nor any offence either in vert or venison, or any other thing. You shall not withdraw, nor abridge any defaults, but shall indeavour your selfe to manifest and redresse the same, and if you cannot doe that of your selfe, you shall give knowledge thereof unto the King, or unto his Iustice of the Forest. You shall deale indifferently with all the Kings liege people: you shall execute the lawes of the Forest, and doe equall right and justice, as well unto the poore, as unto the rich

in that appertaineth unto your office : you shall not oppresse any person by colour thereof, for any reward, favour or malice. All these things you shall to the uttermost of your power observe and keepe. Their office is farther expressed, *eodem*, pag. 93. which is to sit in the Court of Attachment, to see the attachments of the Forest, to receive the same of the Foresters and Woodwards, that doe present them, and then to enter these attachments into their Roles.

Verdict, (*veredictum*) is the answer of a Jurie or Enquest made upon any cause civill or criminall, committed by the Court to their consideration or triall. And this verdict is two-fold: either generall or especiall, *Stamf. pl. cor. lib. 3. cap. 9* A generall verdict is that, which is given or brought into the Court, in like generall termes to the generall issue: as in an action of *disseisin* the Defendant pleadeth, *No wrong, no disseisin*. Then the issue is this in generall, whether the fact in question bee a wrong or not. And this committed to the Jurie, they upon consideration of their evidence, come in and say, either for the Plaintiffe, that it is a wrong, and *disseisin*: or for the Defendant, that it is no wrong, no *disseisin*. And againe, the prisoner at the barre

pleading, Not guiltie: the Enquest in like generall termes bring in their verdict, either for the King, Guiltie; or for the prisoner, Not guiltie. A speciall verdict is that, whereby they say at large, that such a thing, and such, they find to be done by the Defendant, or Tenant, so declaring the course of the fact, as in their opinions it is proved: and for the qualitic of the fact, they pray the discretion of the Court. And this speciall verdict, if it containe any ample declaration of the cause, from the beginning to the end, is also called a verdict at large. Whereof reade divers examples in *Stamf. pl. cor. lib. 3. cap. 9.* and one or two in *Littleton*, fol. 78, & 79. See the new booke of Entries. *verb. Verdict.*

Verge, (*virgata*) may seeme to come from the French (*verger*. i. *viridarium, hortus*.) It is used here in England, for the compasse about the Kings Court, that boundeth the jurisdiction of the Lord Steward of the Kings household, and of the Coroner of the Kings house, and that seemeth to have beene 12. miles compasse, anno 13. R. 2. *Stat. prim. cap. 3. & Fitzh. nat. br. fol. 241. B. and Britton, fo. 68. b. 69. a. and Fleta, lib. 2. cap. 2. and Sir Edward Cookes Reports. li. 4. fol. 47. a.* For this see the Statute

tute, anno 33. Hen. 8. cap. 12. toward the end. But *Fleta* saith, that this compasse about the Court is called *virgata*, à *virga*, quam *Maribellus* portat ut signum sue potestatis, lib. 2. cap. 4. §. prim. Verge hath also another signification, and is used for a sticke, or rod, whereby one is admitted tenent, and holding it in his hand sweareth fealty unto the Lord of a manour: who for that cause is called Tenent by the verge. *Old. nat. br. fol. 17.*

Vergers (*virgatores*) be such as cary white wands before the Iustices of either banke, &c. *Fleta lib. 2. cap. 38.* otherwise called Porters of the verge.

Very Lord, and *very Tenent* (*verus Dominus*, & *verus Tenens*) are they that bee immediate Lord and Tenent one to the other; *Brooke, titulo, Hariot. fol. 23.* In the *old nat. br.* and in the writ (*Replegiare de averiis. fol. 42.* I find these words: And know yee that in taking of leases, six things are necessary: that is to say, very Lord and very Tenent, Service behind, the day of the taking, seisin of the services, and within his Fee. And know yee, that a man is not very tenent, untill hee have attuned to the Lord by some services. So that by *Brooke*, the very Lord, and the very Tenent, must be immediate, and by this booke there must bee an ac-

knowledge. See anno 19. Hen. 7. cap. 15. See *Tenant*.

Vert (*viride*) is made of the French (*verd. i. viridis*) and signifieth with us in the lawes of the Forest, every thing that doth grow, and beare greene lease, within the Forest, that may cover and hide a Deere. *Manwood* in the second part of his Forest lawes, fol. 6. a. and fol. 33. b. (with whom also *Crompton* agreeth, fol. 170. of his Jurisd.) And *vert* (as the same Author saith, *eodem*, fol. 34.) is divided into *Over vert*, and *Neather vert*. *Over vert*, is that, which the Lawyers call (*Hault bois*) and *Neather vert*, is that which they call (*South bois*.) And of this you may reade him in his second part of Forest lawes, cap. 6. per totum. Where you shall find, that hee divideth *vert* into generall, and speciall: Generall is, as it is above defined: *vert* speciall, is every tree and bush within the Forest to feed the Deere withall: as Peare trees, Crab-trees, Hawthornes, Black-bush, and such like. And the reason of this name is, because the offence of destroying of such *vert*, is more highly punished then of any other, according to the quantity thereof, *eodem*, ca. 6. num. 2. fol. 35. a.

Vervise, otherwise called *Plonkets*, anno 1. R. 3. cap. 8. a kind of clothe.

Vesses, anno 1. R. 3. cap. 8. & anno 14. & 15. H. 8. cap. 11. otherwise called, *Set clothes*.

Vesture (*Vestitura*) is a French word signifying a garment: but in the use of our common law, turned metaphorically to betoken a possession, or an admittance to a possession. So it is taken, *Westm. 2. cap. 25. anno 13. Ed. prim.* And in this signification is it borrowed from the Feudists, with whom (*Investitura*) signifieth a delivery of possession by a speare, or staffe, and *vestitura*, possession it selfe. *Hotoman. in verbis feudal. verbo Investitura.*

Vesture of an acre of land, an. 4. *Ed. prim. stat. prim.* is the profit of it, & anno 13. Edward 1. cap. 25.

Vice-treasurer of the Exchequer. 1. *Iacob. 26.* See *Vnder-treasurer of England*. See *Treasurer of the Exchequer*.

View of frank pledge, (*visus Franci plegii*) is the office which the Sheriffe in his Countie Court, or the Bayliffe in his Hundred, performeth in looking to the Kings peace, and seeing that every Free-man bee in some pledge. This is called of *Bracton. lib. 2. cap. 5. nu. 7. in fine. Res quasi sacra, quia solam personam Regis respicit, & quod introductus sit pro pace & communi utilitate. eodem, cap. 16. num. 8. in fine.* See *franke*

pledge, and *Leete*, and *Decennier*. See the new booke of *Enuries*, verb. *view of frank pledge*.

Veious (*visores*) commeth of the French (*Veoyer. i. cernere, intueri, despicere, prospicere, videre*) and signifieth in our common law those, that are sent by the Court to take view of any place in question, for the better descision of the right. *Old. nat. br. fol. 112.* So doth *Bracton* use it, *lib. 5. tract. 3. cap. 8. per totum.* It signifieth also those, that are sent to view such as essoine themselves *de malo lecti*, whether they be in truth so sicke, as they cannot appeare, or whether they counterfeit. *Bracton, lib. 5. tract. 2. cap. 10. & cap. 14 per totum.* Lastly, it is used for those that are sent or appointed to view an offence, as a man murdered, or a Virgin ravished. See *View*.

Vicario deliberando occasione cuiusdam Recognitionis, &c. is a writ that lieth for a spirituall person imprisoned upon forfeiture of a Recognitance, without the Kings writ. *Reg. orig. fol. 147.* See *statuto mercatorio contra personam ecclesiasticam.*

Vicis & venellis mundandis, is a writ that lyeth for a Maior and Bayliffes of a towne, &c. For the cleane keeping of their streets. *Register, orig. fol. 267. b.*

View (*visus*) commeth of the French

French (*vene. i. visus, aspectus, conspectus, prospectus*) &c signifieth with us, the act of viewers. For (as the Author of the Termes of law saith) when any action reall is brought, and the Tenent knoweth not well what land it is, that the Demandant asketh, then hee may pray the view: that is to say, that hee may see the land, which is claimed: of this Britton speaketh, *cap. 45.* This point of proceeding wee have received from the Normans, as it appeareth by the Grand customary, *cap. 66.* where you shall reade to this effect. It is to bee knowne that there bee divers sorts of viewes: one of a Fee, another of a man in sickness, another of an offence, as of a man slaine, or of a Virgin deflowred: all which hee describeth in that place, and againe, *cap. 80. & 96.* which are worth the reading: this view at this day is used in an Alsife of rent service, rent charge, or rent seck. *Fitz. nat. br. fol. 178. D.* and in a writ de Curia claudenda. *Idem, fol. 128. B.* In a writ of Nufance. *Idem, fol. 183. L. N. O.* In a writ Quoivre. *Idem fol. 128. L.* In the writ de rationalibus divisis. *Idem, fol. 129. D.* And in the writ de sessa ad meliendum. *Idem, fol. 123. B.* See the new book of Entries verb. View, and see Fleta how this view is made, *lib. 4. cap. 6.* See Veours.

Vicechamberlaine, called under-chamberlaine, anno 13. R. 2. stat. 2. cap. 1. is a great Officer in Court next under the Lord Chamberlaine, and in his absence hath the command and controlement of all officers superior and inferior whatsoever, appertaining to that part of his Majesties household, which is called the Chamber, wherein is included as well the Bed-chamber, as the Privie-chamber, the Presence and the great Chamber, and all other roomes, as Galleries, &c. thereto belonging, with the Councell-chamber, Privie Closet, &c. And in the Lord Chamberlaines absence hee keepeth his table in the great Chamber, commanding and overseeing the attendance of all, to whom it appertaineth to bee ready, and waiting on his Majesty going to the Chappell, or to speake with Ambassadors, or else walking or riding forth.

Viscount, aliàs Viscount (*vicecomes*) commeth of the French (*vicompte. i. Procomes*) and signifieth with us as much as Sheriffe. Betweene which two words I find no other difference, but that the one commeth from our Conquerours the Normans, and the other from our Auncestors the Saxons, wherefore see

more of this in *Shyreene*. Vicount also signifieth a degree of nobility next unto an Earle, which (as *M. Camden, Britan. p. 170* saith, is an old name of office, but a new one of dignity, never heard of amongst us, untill *Henry* the sixth his dayes. But this degree of honour is more ancient farre in other countries. *Cassan in gloria mundi, parte 5. confid. 55.* whom you may reade.

Vicountie, is an Adjective made of *Vicountie*, and signifieth as much as belonging to the Vicount; as Writs *Vicountiel* are such Writs as are triable in the Countie, or Sheriffes Court. *Old. nat. br. fol. 109.* Of this kind you may see divers Writs of *Nusance* set downe by *Fitzherbert* in his *nat. br. fol. 184. b.* There be also certaine fermes called *Vicountiels*, which the Sheriffe for his time payeth a certaine rent for to the King, and maketh what profit hee can of them. See the statutes, *anno 33. & 34. H. 8. ca. 16. & anno 2. & 3. Ed. 6. cap. 4.* and *anno 4. H. quint. capite secund.*

Vi laica removenda, is a writ that lyeth for the removing of forcible possession of a benefice kept by lay men. And this writ is graunted some time upon the Certificate of the Bishop into the Chancery, that there is such a force in his Dioces: some

time upon a surmise made thereof by the Incumbent himselfe, without the certificate of the Bishop, and hath a severall forme for either case. *Fitzh. nat. br. fol. 54. Register, origin. fol. 59. & 60.*

Villanis Regis subraclis red-cendis, is a writ that lyeth for the bringing backe of the Kings bondmen, that have beene carried away by others out of his maners, whereunto they belonged. *Register, origin. folio 87. b.*

Villein (*villanus*) commeth of the French (*vilain. i. illiberalis, impurus, vilis, turpis*) and signifieth in our common law a bondman, or as much as *Servus* among the Civilians. Of these there be two sorts in England, as *Sir Tho. Smith* saith in his *Repub. Anglo. lib. 3. cap. 8.* one termed a *Villein* in grosse, which is immediately bound to the persons of his Lord and his heires, the other a *villein* regardant to a maner, whom the Civilians terme (*Gleba ascriptitium*) being bound to their Lord, as members belonging and annexed to such a manour, whereof the Lord is owner. This division is affirmed by divers places of our Common law Writers: as in the *Old. nat. br. fol. 8.* You have these words. Know yee that a woman shall be

bee indowed with a villein in grosse, &c. and againe, fol. 39. If a man doe menace or threaten any villeines, which are regardant to a maner, &c. *Bracton* hath another division of villeines, which is all one with the Civilians. For in his first booke, cap. 6. num. 4. hee saith thus: *Servi autem nascuntur aut fiunt*: and then thus goeth forward: *Nascuntur ex nativo & nativa alicujus copulatis vel solutis, sive sub potestate Domini constituti sint, sive extra potestatem. Item nascitur servus qui ex nativa soluta generatur, quamvis ex patre libero: quia sequitur conditionem matris quasi vulgò conceptus, &c.* And after divers things delivered of this sort, he saith againe thus: *Fiunt etiam servi liberi homines captivitate de jure Gentium, &c.* Fit etiam servus liber homo pro confessionem in Curia Regis factam: ut cum liber homo sit in Curia Regis, & se cognoscat ad villanum. Item liber homo fit servus, si cum semel manus missus fuerit, ob ingratitudinem in servitutem revocetur. Item fit liber homo servus, cum ab initio clericus vel monachus factus fuerit, postea ad secularem vitam redierit. Quia talis restitui debet Domino suo v. *Tiraquellum de Nobilitate*, cap. 2. pag. 14. num. 54. In very many Provinces of France there be certaine men called (*homines manus mortue*, qui tanta juris similitudine adscriptis colonis

conjuncti, & prope iidem videntur. Non autem servi sunt omnino, sed in territorio domini sunt, tanquam alligati, non habentes demigrandi potestatem. Itaque servi corporis & prosecutionis vulgò dicuntur, quòd si fugerint, potest eos prosequi dominus & capere. Tributum autem isti & nonnullas commoditates domino præstant: in quibus hæc maxima, quòd ipsis vita functis sine sobole, succedit dominus vel ex toto vel ex parte. *Connanus*, lib. 2. cap. 10. num. 3. whole words I thought not unfit for this place, because they expresse the nature of our villenage something aptly.

Villein fleeces, anno 31. Ed. 3. cap. 8. are fleeces of Wooll that are shorne from scabbed Sheepe.

Vidimus, anno 15. H. 6. ca. 3.

Villenage (*Villanagium*) cometh of (*villein*) and signifieth a servile kind of tenure belonging to lands or tenements; that is, a tenure of lands or tenements, by such a service, as villeines are fittest to performe. For every one that holdeth in villenage, is not a villein, or a bond man. *Villanagium vel servitium nihil detrahit libertatis, habita tamen distinctione, utrum tales sint villani, & tenuerint in villano soccagio de dominico Domini Regis.* *Bracton*, lib. prim. cap. 6. num. prim. *Britton* in his 66. chapter speaketh to this effect:

effect: Villenage is a tenure of the demesnes of a Lord delivered to a Tenant at the Lords will, by villenous services, to improve it to the Lords use, and delivered by the Rodde, and not by any Title of Writing, or Succession of Inheritance, &c. And a little after he hath words to this effect: In the Maners of our Auncient Demeasnes, there be pure villeines both by blood and tenure: the which may be cast out of their tenement, and deprived of their chancels, at the pleasure of the Lord. By which two places I gather, though villein tenure doe not alway make the Tenant a villein: yet that there is a twofold tenure called villenage: one wherein both the person and the tenure is bound, and in all respects at the disposition of the Lord: and another, which in respect of the tenure, is after a sort servile, though the person bee not bond. This is well proved by *Bracton*, lib. 2. ca. 8. num. 3. in these words: *Item tenementum non mutat statum liberi, non magis quam servi: Poterit enim liber homo tenere purum villenagium, faciendo quicquid ad villanum pertinebit, et nihilo-minus liber erit, cum hoc faciat ratione villenagii, & non persona sua: & ideo poterit, quando voluerit, villenagium deserere, & liber discendere, nisi illaque atus sit per uxorem nativam ad hoc faciendum, ad*

quam ingressus fuit in villenagium, & qua prestare poterit impedimentum, &c. So that a man may hold in pure villenage, and yet bee a free man in respect of his person. But what is pure villenage? *Bracton* answereth in the words there next following: *Purum villenagium est, a quo prestatur servitium incertum et indeterminatum, ubi sciri non poterit vespere, quale servitium fieri debet mane. viz: ubi quis facere tenetur quicquid ei preceptum fuerit.* The other sort of villenage which is not pure, is there called of *Bracton* (*villanum foccagium*) which differeth from the other in this, because it is onely tyed to the performance of certaine services agreed upon betweene the Lord and the Tenant. Whereof see *Bracton* also in the same place: by whom you may perceive, that a man may hold (*per villanum foccagium*) and yet have *liberum tenementum*) if hee have it to himselfe and his heires. This villanous foccage is to carry the Lords dung into his Fields, to plow his Ground at certaine daies, sow and reape his Corne, plash his Hedges, &c. See *Socage*.

Villanous judgement (*Villanum iudicium*) is that which casteth the reproach of villeny and shame upon him against whom it is given, as a Conspiratour, &c.

Stawf. pl. cor. li. 3. 12. f. 175. This *M. Lamb.* in his *Eirenarcha*, li. 1. ca. 13. pag. 63. calleth villenous punishment, and saith that it may well be called infamous, because the judgement in such a case shall be like the ancient judgement in Attaint (as it is said *anno 4. H. 5. Fitzh. Indgement*, 220.) and is (in *27. lib. Assis. pl. 59.*) set downe to be, that their oathes shall not be of any credit afterward, nor lawfull for them in person to approach the Kings Courts: and that their lands and goods be seised into the Kings hands, their trees rooted up, and their bodies imprisoned, &c. And at this day the punishment appointed for perjurie, (having somewhat more in it then corporall or pecuniary paine) stretching to the discrediting of the testimony of the offender from ever after, may be partaker of this name. Thus far *M. Lamb. berd.*

Virgata terra. Reg. orig. fo. 167. a. See *Yard land.*

Viridario eligendo, is a writ that lyeth for the choise of a verdour in the Forest, *Register origin. fol. 177.*

Visitation of maners (Visitatio morum) was wont to be the name of the Regarders office in ancient time, *Manwood, parte pri.* of his Forest lawes, pag. 195. See *Regarder.*

Visine (Vicinetum) signifieth a

neighbour place, or a place neere at hand, *anno 16. R. 2. ca. 6.*

Visu Franciplegii, is a writ to exempt him from coming to the view of Frankpledge, that is not within the Hundred resident. For men are bound unto this view by reason of their habitation, and not of lands held where they dwell not, *Regist. orig. fol. 175.*

Vitteller (victualarius) cometh of the French (*victuailles. i. commeatus*) and signifieth with us, him that selleth victuals. For these there is a writ in *Fitzherbert, nat. brev. fol. 172.* if they exercise their trade, bearing a magistracie in any Towne Corporate.

Umple, anno 3. Edwardi 4. cap. 5.

Uncore prist, is a plee for the Defendant, being sued for a debt due at a day past, to save the forfeiture of his bond; saying, that hee tendered the debt at the time and place; and that there was none to receive it, and that hee is now also readie to pay the same. *7. Ed. 6. 83. Dyer.* See *Unquest prist.*

Uncuth, is a Saxon word, signifying as much as (*incognitus*) It is used in the ancient Saxon lawes, for him that cometh to an Inne guest wise, and lyeth there for two nights at the most. In which case

his Host was not bound to answer for any offence, that hee committed, whereof hee was guiltlesse himselfe. But if hee laid there the third night, then hee was called (*guest, hospes*) and then must the Host answer for him, as for one of his owne familie. And if hee tarried any longer, then was hee called *Agen hinc*, that is to say, *familiaris*. Whom, if hee offend against the Kings peace, his Host was to see forth-comming: or if hee could not bring him out within a month and a day, hee must satisfie for his offence. *Lamberd, Archaiano. fol. 133. num. 7.* Of this *Bracton, lib. 3. cap. 10. num. 2.* writeth thus: *Item secundum antiquam consuetudinem dici poterit de familia alicujus, qui hospitius fuerit cum alio per tres noctes: quia primâ nocte poterit dici Vncuth, secundâ verò Gust, tertiâ nocte Hoghenhinc, &c.* This law was made for the better preservation of the Kings peace, and to shew in what pledge every man was to bee accompted, that travelled by the way. See *Tnainnithes gest.*

Unde nihil habet, is a writ. See *Dote unde nihil habet.*

Under-chamberlaine of the Exchequer, is an Officer there, that cleaveth the Tallies, written by the Clerke of the Tallies, and readeth the same, that the Clerke of

the Pel, and the Controullers thereof may see their entrie be true. Hee also maketh searches for all Records in the Treasurie. There bee two Officers there of this name.

Vnderescheatour. Subescheatour. anno 5. Ed. 3. cap. 4. See *Escheatour.*

Vnder-shyreeve (Subviccomes) See *Shyreeve.*

Vnderfitter, is an Inmate. See *Inmate.*

Vndertakers, be such as are employed by Purveyours of the King as their deputies, anno 2. & 3. Ph. & Ma. cap. 6. and such as undertake any great worke, as drying of Fennes, &c. anno 43. Elizab. cap. 11.

Under-treasurer of England, (*vicethesaurarius Anglia*) anno 39. Eliz. cap. 7. & anno 43. ejusdem. *Subsidie of the Clergie.* This Officer (as some Exchequer men thinke) was first created in the time of King Henry the seventh, to chest up the Kings Treasure at the end of every Terme, and to note the content of money in each chest, and to see it carried to the Kings Treasurie in the Tower, for the ease of the Lord Treasurer, as being a thing too meane for him to bee troubled with, and yet meet to be performed by a man of great secrecie and trust. Hee in the vacancie of the Lord Treasurers

ners office, doth all things in the receipt, that the Lord Treasurer doth. Hee nominateth the two Prayers of all goods seised as not customed, and ordereth, whether the partie shall have them at the price or not. Hee appointeth the Steward, Cooke, and Butler for the provision of the Starre-chamber. But this Officer in other mens judgement, is farre more ancient then Henry the seventh's dayes, yet named Treasurer of the Exchequer in the Statutes, untill Queene Elizabeth's time, where hee is termed Vnder-treasurer of England. Neverthelesse, anno 35. Eliz. hee is also written Treasurer of the Exchequer. Reade the Statutes, anno 8. Ed. 3. *statut. 2. cap. 17. & 27. ejusdem. Stat. 2. cap. 18. 1. Rich. 2. cap. 5. 4. H. 4. cap. 18. 8. H. 6. cap. 17. 27. H. 8. cap. 11.* with divers other places, that seeme to approve this to be true.

Vnion (*unio*) is a combining or consolidation of two Churches in one, which is done by the consent of the Bishop, the Patron, and the Incumbent. And this is properly called an *Vnion*. Howbeit, that there bee two other sorts: as when one Church is made subject to the other, and when one man is made Prelate of both, and when a Conventuall is made Cathedrall, as you may

reade in the Glosse of the chapter. *Licet. De locato & conducto.* in *Lyndwoods Provincials. §. Et quia, versu Appropriationis.* Touching *Vnion* in the first signification there was a statute, anno 37. Hen. 8. cap. 21. that it should bee lawfull in two Churches, whereof the value of the one is not above sixe pounds in the Kings bookes of the first frutes, and not above one mile distant from the other. *Vnion* in this signification is personall, and that is, for the life of the Incumbent: or reall, that is, perpetuall, whosoever be Incumbent.

Vnitie of possession, is called *consolidatio usus fructus, & proprietatis* in the Civill law, signifying a joynt possession of two rights by severall titles. For example, I take a lease of land from one upon a certaine rent: afterward I buy the Fee-simple. This is an unitie of possession, whereby the lease is extinguished: by reason that I, which had before the occupation onely for my rent, and become Lord of the same, and am to pay my rent to none, but my selfe. Also an Abbot being seated within a certaine parish, afterward obtaineth an appropriation of the tythes belonging to that Church, for the use of his house. Here is an unity of possession, by reason that the tythes, which before were to bee

paid to the Incumbent, are now to be paid to none but himselfe, by verue of the appropriation.

Vniuersitie (*Vniuersitas*) is by the Civill Law any body politicke, or corporation: but in our language it is (at the least most ordinarily) taken for those two bodies, that are the Nourses of learning, and the liberall Sciences, *Cambridge* and *Oxford*: endowed with great favours, and priviledges, for their better maintenance, as appeareth not only by *anno 2. & 3. Ph. & Mar. ca. 15. a. 13. El. c. 21. & a. 18. ejus. ca. 6.* but much more by their severall Charters, grannted unto them by divers godly and magnanimous Kings of this land.

Unlawfull assembly, (*Illicita congregatio, illicita assemblata*) is the meeting of three or more persons together, with force to commit some unlawfull act, and abiding still, not endeavoring the execution thereof, as to assault or beate any person, to enter into his house or land. &c. *West. parte 2. symb. titulo, Inditeiments, sect. 65. M. Lamberd in his Eirenarcha, cap. 19.* saith thus: An unlawfull assembly is the company of three persons or more, gathered together, to doe such an unlawfull act, although they doe it not indeed. So saith *Kitchin* in effect, *fol. 20.*

Vnques prist, is (word for

word) alwayes ready. And it signifieth a Plee, whereby a man professeth himselfe alway ready to doe or performe that, which the Demandant requireth, thereby to avoid charges. For example: a woman sueth the tenent for her Dower: and hee comming in at the first day, offereth to averre, that hee was alway ready and still is, to performe it. In this case except the Demandant will averre the contrary, hee shall recover no dammages. When this Plee will serve to avoid Charges. and when not, see *Kitchin, fol. 243.* See *Vncores prist*.

Voydance (*vacatio*) is a want of an Incumbent upon a benefice: and this voydance is double: either in law, as when a man hath more benefices incompatible: or indeed, as when the Incumbent is dead, or actually deprived, *Brooke, titulo Quare impedit. n. 51.*

Voucher (*Advocatio*) is a calling in of one into the Court at the petition of a party that hopeth to be helped thereby. New booke of Entries, verbo, voucher. voucher de garantie, *Brit. cap. 75.* in latine (*Advocatio ad warrantandum*) is a petition in Court made by the Defendant to have him called, of whom hee or his Ancestor bought the land or tenement in question, and received warranty for the secure enjoying thereof against all men. *Brit.*

Britton of this writeth a long chapter, *ubi supra*, intituling it *Garant voucher*. But *Bracton* writeth a large tractate of it, *li. 5. tractat. 4. per totum*, *Littleton* also handleth it not miningly, in the last chapter of all his Tenures. Of this you may reade *Fitzb.* also in his *nat. br. fol. 134. Dewarrantia charta*. All this law seemeth to have beene brought into England out of Normandy. For in the Grand Customary you have likewise a chapter intituled (*vouchement de garant, cap. 50. id est, vocamentum Garanti*) where it is set downe, what time ought to be given, for the appearance of the warrant called in this case, how many warrants may be vouched, one calling in another, and divers other points touching this doctrine. All which, and many more, you may reade in *Bracton ubi supra*. A common voucher, a double voucher. *Cooke, lib. 2. Sir Hugh. Cholmeis case, fol. 50. b.* This is very answerable to the contract in the Civill law, whereby the Buyer bindeth the Seller, sometime in the simple value of the thing bought, sometime in the double, to warrant his secure enjoying of the thing bought. But this difference I find betweene the Civill law and ours, that whereas the Civill law bindeth every man to warrant the secu-

ritie of that which hee selleth ours doth not so, except it bee especially covenanted. The party that voucheth in this case, is called the Tenent, the party vouched is termed the *Voucher*. The writ whereby hee is called is termed *Summons ad warrantandum*. And if the Sheriffe returne upon that writ, that the party hath nothing, whereby hee may be summoned: then goeth out another writ, *viz. Sequatur sub suo periculo*. See *Termes of the law, verbo Voucher*. And *Laub.* in his Explication of Saxon words, *verbo Advocare*. See *Warrantie*. I reade in the new booke of Entries, of a *foraine voucher*, which hath place properly in some Franchise, County Palatine, or other where one voucheth to warrantie one not dwelling within the Franchise, *fol. 615. columna. 1.* whereupon because the Foreyner need not be tryed in that Court, the record and cause is removed to the common plects, &c. See of this *Fitz. nat. br. fol. 6. E.*

Vfer de action, is the persuing or bringing of an action, which in what place and countie it ought to be. See *Brooke, titulo Lieu & Countie, fol. 64.*

Vse (usus) is in the originall signification, plaine enough: but it hath a proper application in our common law; and that is

the profit or benefit of lands or tenements. And out of *M. Wests* first part of his *symbol. lib. pri. sect. 48. 49. 50 51. and 52.* I gather shortly thus, much for this purpose. Every deed in writing hath to bee considered the substance, and the adjuncts. Touching the substance, a deede doth consist of two principall parts, namely the premisses and the consequents. The premisses is the former parte thereof, and is commonly said to bee all that, which preceedeth the (*Habendum*) or limitation of the estate, which bee the persons contracting, and the things contracted. The consequent is that which followeth the premisses, and that is the (*Habendum*) In which are two limitations: the one of the estate, or property, that the party passive shall receive by the deed, the other of the use, which is to expresse in the said (*Habendum*) to or for what use, and benefit hee shall have the same estate. And of the limitation of those uses, you may reade many presidents set downe by the same Author in his second booke of his said first part, *sect. 308. and so forth to 327.* These uses were invented upon the statute called *West. 3. or Quia emptores terrarum*, before the which statute no uses were knowne. *Perkins. Devises, 528.* And be-

cause mens writs, had in time devised many deceits, by the setting of the possession in one man, and the use in another, there was a statute made, *anno 27. H. 8. cap. 1.* whereby it was enacted, that the use and possession of lands and possessions should alway stand united. New Expositor of law termes, *verbo. Use v. Cooke lib. 1. Chudleise case, fol. 121. & seqq.*

Usher (Ostiarium) commeth of the French (*Huissier. i. Accensus, apparitor, janitor*). It signifieth with us first an officer in the Exchequer: of which sort there be foure ordinary ushers that attend the chiefe officers and Barons of the Court at *Westminster*, and Iuries, Sheriffes, and all other accountants at the pleasure of the Court. There bee also Ushers in the Kings house, as of the privie Chamber, &c.

Vras (Octava) is the eighth day following any terme or feast: as the *vras* of *Saint Michaele*, the *vras* of *Saint Hilary*, the *vras* of *Saint Martine*, of *Saint Iohn Baptist*, of the *Trinity*, &c. as you may reade, *anno 51. H. 3. stat. concerning generall dayes in the Bench.* And any day betweene the feast and the eighth day, is said to be within the *vras*. The use of this is in the returne of writs, as appeareth by the same statute.

Vsfangthes, is an ancient Roy-
altie granted to a Lord of a Ma-
ner, by the King which giveth
him the punishment of a thiefe
dwelling out of his liberty, and
having committed theft with-
out the same, if hee bee taken
within his fee. *Bracton, lib. 2.*
cap. 24. who in his third booke,
tractat. 2, cap. 35. seemeth rather
to interpret the word, then to
expresse the effect, and saith thus:
Vsfangthes dicitur extraneus la-
tro, veniens aliunde de terra alic-
na, & qui captus fuit in terra ip-
sus, qui tales habet libertates.
It seemeth to bee compounded
of these three words; *Vt, fang,*
thes: which in our moderne
English be, oute, take or ta-
ken, Thiefe. Of this *Fleta* hath
these words: *Vsfangthes dicitur*
latro exetaneus veniens aliunde de
terra aliena, & qui captus fuerit
in terra ipsius qui tales habet liber-
tates. Sed non sequitur quod possit
ille hominem suum proprium extra
libertatem suam captum reducere
usq; in libertatem, & ibi eum judi-
care: reducere tamen poterit judi-
catum, & iudicium in proprio pa-
tibulo exequi ratione libertatis:
commodum tamen non video. De-
bet enim quilibet juri subjacere,
ubi deliquit: proprios tamen latro-
nes & alienos judicare possunt dum
tamen infra libertatem fuerint cap-
ti, &c.

Utlaghe, significat bannium ex-

tra legem, Fleta, lib. 1. cap. 47. See
Vilawrie.

Vilagatio capiendo quando utla-
gatur in uno comitatu, & postea
fugit in alium, is a writ, the nature
whereof is sufficiently expresse
in the words set downe for the
name thereof. See the Register
original, fol. 133.

Vilawrie, (utlagaria, aliàs utla-
gatio) is a punishment for such
as being called into law, and
lawfully sought, doe contemptu-
ously refuse to appeare. And
as *Bracton* saith, *li. 3. tract. 2. cap.*
11. Hee that is sued must bee
sought, and called at five Coun-
ties, a moneth being betweene
every Countie, to answer to the
law. And if hee come not with-
in that time, *pro exlege tenebitur*
cum principi non obediat, nec legi:
& ex tunc utlagabitur: that is,
(as the Author of the Termes of
Law saith) hee shall be pronoun-
ced by the Coroner, to be out
of the Kings protection, and
deprived of the benefit of the
law. The effect of this is divers,
(as the same Author saith) for
if hee be outlawed in an action
personall, (hee meaneth) at the
suite of another in a civill cause:
hee shall forfeit all his goods and
cattels to the King: if upon fe-
lonie, then hee shall forfeit all
his Lands and Tenements, that
hee hath in fee-simple, or for
terme of his life, and his goods
and

and cattles, *Bracton, ubi supra, num. 5.* saith, that such as be outlawed upon Felonie, *Ex tunc gerunt caput lupinum, ita quod sine judiciali inquisitione rite pereant, & secum suum iudicium portent, et merito sine lege pereant, qui secundum legem vivere recusarunt. Et hoc ita, si cum capiendi fuerint, fugiant, vel se defendant si autem vivi capii fuerint, vel se reddiderint, vita illorum et mors erit in manu Domini Regis.* See *Hornes mirrour of Iustices, lib. 3. cap. des fautes punissables.* *Bracton* saith in the place above specified (with whom also *Fleta* agreeth, *lib. 1. cap. 27.*) that a Minor or a woman cannot bee outlawed. But take his owne words: *Minor vero, & qui infra aetatem, 12. annorum fuerit, utlagari non potest, nec extra legem poni, quia ante talem aetatem non est sub lege aliqua, nec in Decenna, non magis quam femina, quae utlagari non potest, quia ipsa non est sub lege. i. In laugh Anglice, sc: in franco plegio, sive decenna: sicut masculus, 12. annorum, & ulterius. Et ideo non potest utlagari. Waiviari tamen bene potest, & pro derelicta haberi, cum pro feloniam aliqua fugam fecerit sine ceperit. Est enim waivium, quod nullus advocat, nec princeps eum advocabit, nec tuebitur, cum fuerit rite waiviata: sicut fit de masculo, qui secundum legem terra rite fuerit utlagatus, &c.* To the same

effect writeth *Fitzherbert* in his *natura brev. fol. 161. viz.* And because women be not sworne in leetes to the King, as men be of the age of twelve yeares or upward: it is said, when a woman is outlawed, that shee is waived, but not outlawed, for shee was never under the law, nor sworne unto it. More of this you may reade in *Bracton, lib. 3. tractat. 2. cap. 12, & 13.* and then in the 14. how an outlaw is in-lawed againe, and restored to the Kings peace and protection. See also *Fleta, lib. 1. cap. 28. per totum.*

Virum. See *Affise.*

Utter Baristers, be such, as for their long study, and great industry bestowed upon the knowledge of the common law, be called out of their contemplation to practise, and in the face of the world, to take upon them the protection and defence of Clients. These are in other countries called (*Licentiati in jure.*) Howbeit, in modestie they still continue themselves hearers for divers yeares, like the Schollers of *Pythagoras*, that for the first five yeares never adventured to reason or discourse openly upon any point of their masters Doctrine, which their silence (*a cohibendo sermone*) was termed *exaudia*, as *Suidas* and *Zenodorus* doe report.

Utilepe,

*Uilepe significat escapium latro-
num, Fleta, lib. 1. ca. 47.*

W

W *Age* (*vadiare*) proceedeth of the French (*Gager. i. dare pignus, pignore certare*) and signifieth in our common law, the giving of securitie for the performing of any thing: as to wage law, and to wage deliverance; which see before in *Gage*. None wageth law against the King, *Broke, titulo Chose in action, num. 9.* The Substantive of this verb is (*Wager*) in the Latine (*vadium*) which some Feudists call (*wadium*) as testifieth *Hotoman* in his *Commentaries de verbis feudilibus. verbo Wadium.* See *Law*.

Wainage (*wainagium, aliàs wainagium*) signifieth as much as *peculium servorum*, of the Saxon word *woven. i. habitare, & woening. i. habitatio.* See *Gamage*.

Waive (*waivare*) (*Regist. orig. fol. 277. a.*) is to forsake (*habere pro derelicto*) as the Civilians terme it. *Waivare feudum suum. Bracton, lib. 2. cap. 7.* that is to forsake. Many of the Kings liege people to bee out-lawed, and many waived by erroneous proces, *anno 7. H. 4. ca. 13.* See *Vilawrie*. To waive the company of thieves, *Stawnsf. pl. cor. fol. 26.* To waive his benefit, *Idem, fol.*

46. To waive the advantage, *Idem prarog. fol. 17.* Persons attainted or waived, *West, parte 2. symbol. tit. Fines. Sect. 13. D.* This word waived *waivata* properly belongeth to a woman, that being sued in law, contemptuonslie refuseth to appeare, as outlawed doth to a man, *Regist. orig. fo. 132. b. & 277. a.* The reason whereof see in *Fitzh. nat. br. fol. 161. A.* See *Weif*.

Wales (*Wallia*) is a part of England, on the West side inhabited by the off-spring of the ancient Britons chased thither by the Saxons, being called hither by them, to assist them against the might of the *Picts*. The reason of the appellation commeth from the Saxon (*wealh. i. exterius, vel peregrinus*) for so the Saxons both called them, and held them; though now, to the great quiet of this Kingdome they be incorporated unto us. See *M. Lamberds* explication of Saxon words, *verbo. VVallus.*

VValkers, seeme to be those that are otherwise called Foresters. *Crompton* in his *Iurisdictions, fol. 154.* hath these words in effect: There bee Foresters assigned by the King, which be walkers within a certaine space assigned them to looke unto.

VVaiuaria mulieris, is as much as *utlagatio viri. Regist. orig. fol. 132. b.* See *VVaive*.

Wapentake (*Wapentakum*) is all one with that, which wee call a Hundred, as appeareth by *Bracton*, lib. 3. tract. 2. ca. pri. nu. pri. in fine. *Convocentur* (saith he) *postmodum servientes & Balivi Hundredorum, et per ordinem irrotulentur Hundredarii, sive wapentakia, et nomina servientium quorum quilibet affidabit quod de quolibet Hundredo eligeret quatuor milites, qui statim veniant coram Iusticiariis ad faciendum preceptum Domini Regis, & qui statim jurabunt, quod eligent duodecim milites, vel liberos & legales homines, si milites non inveniantur, &c.* *M. Lamberd* in his explication of Saxon words, verbo *Centuria*, is of the same mind: and farther saith, that this word is especially used at this day in the countries be North the river *Trent*. And in the lawes of King *Edward*, set forth by him, num. 33. it is most plaine in these words: *Et quod Angli vocant Hundredum, supradicti comitatus vocant wapentakum*. But there he nameth some Shires of this side *Trent*: as *Warwickshire, Leicestershire, and Northamptonshire*. In the words there following, there is a reason given of this appellation in these words: *Et non sine causa: Cum quis enim accipiebat praefecturam wapentakii, die statuto in loco, ubi consueverant congregari, omnes majores contra eum conveniebant, & descendente de equo*

*suo, omnes assurgebant ei. Ipse vero, erecta lancea sua, ab omnibus secundum morem foedus accipiebat. Omnes enim quotquot venissent, cum lanceis suis ipsius hastam tangebant, & ita confirmabant per contractum armorum, pace palam concessa. Anglicè enim arma vocantur (wapun) & taccare confirmare: quasi armorum confirmatio. Vel ut magis expresse secundum linguam anglicanam dicamus, wapentak armorum tactus est (wapun) enim arma sonant (tac) tactus est. Quamobrem poterit cognosci, quod hac de causa, totus ille conventus dicitur (wapentak) eò quod per tactum armorum suorum ad invicem confederati sunt. Thus farre the booke goeth word for word. With whom *Fleta* agreeth, saving that *Fleta* saith, that this word is used in all countiees be North *Watlingstreet*, li. 2. ca. 61. §. *universimode*. Take *Sir Thomas Smithes* opinion also: whose words, in his second booke de *Rep. Anglo*. ca. 16. bee these: *Wapentak*, I suppose, came of the *Danes*, or peradventure of the *Saxons*. For that so many Townes came by their order then into one place, where was taken a mousther of their armour and weapons: in which place, from them that could not find sufficient pledges for their good abearing, their weapons were taken away. The statute, anno 3. *Henrici 5. cap. 2. & anno 9. H. 6.**

cap. 10. & anno 15. Hen. 6. cap. 7. T. maketh mention of *Staincliffe Wapentake*, and *Frendles Wapentake*, in *Craven* in the County of *Yorke*. See *Roger Houeden*, parte pester: *snorum annalium* fo. 346. b.

Wards and Liveries (*wardi & liberatura*) is a Court first erected in King *Henry* the eighth his time, and afterward augmented by him with the office of *Liveries*, and therefore called by him (as now it is) the Court of *wards* and *Liveries*. The chiefe of this Court is called the master of the Court, &c. To whom are joyned the *Surveieur*, *Attorney*, and *Receiver* of the said Court, as his Assistants: then as *Ministers* the *Register*, two inferiour *Attornies* or *Clarkes*, and a *M. flenger*.

Ward (*Custodia*) is the *German* word, as (*Garde*) is the *French*. Both these bee used among our common *Lawyers*: the one by those that write in *French*, the other by those that write in *English*. Wherefore for your farther understanding, see *Gard* and *Gardein*. Yet is *Gard* sometime used in the *English* bookes also: as yeomen of the *Gard*. And also the keeper of one in his minority, is not called a *warden* but a *Gardein* or *Gardian*. *Ward* hath divers applications, as a *Ward* in *London*, latined (*warda*) which is a portion of the *Citie* committed to the especiall

charge of some one of the foure and twenty *Aldermen* of the *Citie*, in such sort as every one knoweth his certaine ward assigned unto him, and hath dwelling within the same compasse some one grave *Citizen* for the good government thereof: who is in that respect a *Deputy* to the said *Alderman* and commonly called the *Aldermans Deputy*. Of these there bee five and twenty within the *Citie*, and one without, beside other liberties and the suburbs, *Stowes Survey of London*. Also a *Forest* is divided into *wards*: *Manwood*, parte prim. of his *Forest lawes*, pag. 97. Lastly, a prison is otherwise called a *Ward*. And the heire of the *Kings* tenent, holding by *Knights service*, or *in capite*, or of any common person by *Knights service*, is called *Ward*, during his nonage, See anno 31. Hen. 8. cap. 46.

Warden (*Gardianus*) signifieth all one thing with the *French* (*Gardien*). And therefore of this see more in *Gardien*. But it is the more usuall word of all that writ in *English*, for him that hath the keeping, or charge of any person or thing by office: as *Wardens* of *Fellowships* in *London*, anno 14. Hen. 8. cap. 2. *Warden courts*, anno 31. H. 6. cap. 3. *Warden of the Marches*, an. 4. Hen. 7. cap. 8. *Wardens and Com-*

munaltie of the lands contributive unto Rochester bridge, anno 18. *Eliza. cap. 7.* Wardens of peace, anno 2. *Ed. 3. cap. 3.* Statute Northampton. Warden of the West Marches. *Camd. Brit. pag. 606.* Warden of the Forest. *Manwood. parte pri. pag. 111. & 112.* VVarden of the Aulnage, anno 18. *Hen. 6. cap. 16.* Chiefe Warden of the Forest. *Manwood parte pri. pag. 42. & 43.* VVarden of the Kings wardrobe, anno 51. *H. 3. statut. quintb.* VVardens of the tables of the Kins Exchange, anno 9. *Edw. 3. statut. 2. cap. 7. et anno 9. Hen. 5. stat. 2. cap. 4.* VVardens of the rolles of the Chauncery, anno 1. *Edw. 4. ca. 1. et cap. 5.* Warden or Clearke of the Hamper of the Chauncery. *Ibid.* Warden of the Kings writs, and Records of his common bench, *ibid.* Warden of the Kings armour in the tower, *an. 1. Ed. 4. cap. 1.*

Wardmote, is a Court kept in every ward in London, anno 32. *Hen. 8. cap. 17.* ordinarily called among them, the *Wardmote Court.*

Ward peny, is money to bee contributed toward watch and ward.

Warantie (*warantia*) cometh of the French (*garantie*) or (*garant*) i. *vindex litis*;) which is a word of great antiquity with the French men, being brought

first thither by the *Francogali.* And hence doe they make a Latinish verbe, viz. (*guarentare*) vel, ut est in aliis libris, *guarentisare. i. causam alterius suscipere, se defensorem profiteri.* The Feudists also use this word (*guarentus*) quo significatur is, qui Latinis author dicitur, et evictionem prestat. *lib. 2. Feud. titulo 34. §. 2.* The Civilians have a stipulation (*habere licere*) whereby is signified a power of perpetuall and quiet possession to bee given *lib. 11. §. final. π. de action. empt. et vend.* But this reacheth not to farre as our warrantie. For the Seller hereby is bound but to a kind of diligence and care to mainetaine the Buyer in his possession. For if hee bee evicted, the Buyer is not tyed to recompense. *Doctores in l. stipulatio ista. Habere licere. π. de verb. obliga.* Warrantie signifieth in our common law, a promise made in a deed by one man unto another, for himselfe and his heires to secure him and his heires against all men, for the enjoying of any thing agreed of betweene them. And hee that maketh this warrantie, is called *Warrantus* by *Bracton, lib. 2. cap. 19. et 37.* The Romanes called him *Anterem*, as *Hotoman* testifieth in his Commentarie upon *Tullies* oration *pro Aulo Caccinna, verbo, Cessennius anther fudi*, whom you may

may reade more at large. And that which we terme *vocationem warranti*, the Civilians call *authoris laudationem vel nominationem*. Eimer *pract. cap. 48*. This warranty passeth from the seller to the buyer, from the feoffer to the feoffee, from him that releaseth, to him that is released of an action reall, and such like. And for the forme it passeth in a clause toward the end of a deed in these words: *Et ego verò prefatus I, & heredes mei predictas decem acras terra cum pertinentiis suis prefato H. heredibus, & assignatis suis contra omnes gentes warrantizabimus in perpetuum per presentes.* West. parte prim. symbol. lib. 2. titulo Feofments, sect. 281. & 288. So a release may be with a clause of warrantie. *Idem, eodem, titulo Releases, sect. 510.*

There is also a warrant of Atturney, whereby a man appointeth another to doe some thing in his name, and warranteth his action, West. cod. sect. 181. And these warrants of Atturney seeme to differ from letters of Atturney, because that, whereas letters pass ordinarily under the hand and seale of him, that maketh an Atturney by them, before any credible witnesses: warrants of Atturney bee acknowledged before such persons, by such meanes and in such manner, as Fines, West. parte 2. symbol. titulo Recoveries,

sect. prim. F. See Atturney.

But these warranties in passing land from one to another, bee of greatest consequent, and of more intricate understanding. And therefore of these, divers have written at large: as Glanville, lib. 3. per totum. Bracton, lib. 5. tract. 4. per totum. Britton, cap. 105. Littleton in the last chapter of his tenures: the forme and effect whereof Bracton in his second booke, cap. 16. num. 10. declareth thus: *Et ego & heredes mei warrantizabimus tali & heredibus suis tantum vel tali & heredibus & assignatis, & heredibus assignatorum, vel assignatis assignatorum, & eorum heredibus, et acquietabimus, et defendemus eis totam terram illam cum pertinentiis (secundum quod predictum est) contra omnes gentes in perpetuum, per predictum servitium.* Per hoc autem quod dicit (Ego & heredes mei) obligat se & heredes suos ad warrantiam, propinquos et remotos, presentes & futuros ei succedentes in infinitum. Per hoc autem quod dicit (warrantizabimus) suscipit in se obligationem ad defendendum suum Tenementum in possessione res date, & assignatos suos & eorum heredes, & omnes alios, secundum quod supradictum est, si forte tenementum datum petatur ab antiquo in Dominico. Per hoc autem quod dicit (acquietabimus) obligat se & heredes suos ad

acquiescendum, si quis plus petierit servitij, vel aliud servitium, quam in charta donationis continetur: per hoc autem quod dicitur (Defendendum) obligat se & heredes suos ad Defendendum, si quis velit servitutem ponere rei data contra formam sue donationis, &c. But the new Expounder of law termes saith, that this warranty beginneth two wayes: one by deed of law: as if one and his ancestors, have held land of another and his ancestors, time out of mind by homage (which is called *Homage antecessoril*) for in this case, the homage continually performed by the tenent is sufficient to bind the Lord to warrant his estate. The other is by deed of the party, which by deed or fine tyeth himselfe to warrant the land or tenement to the tenent. And *Sir Ed. Cooke* in the fourth booke of his reports, mentioneth the same distinction. *Nokes case, fol. 81. a.* calling the one a warranty in law, the other an expresse warranty. Civilians would call these species, *tacitam & expresse*.

Warranty (as the said Author of the termes of law saith, is in two manners: warranty lineall, and warranty collaterall. But (*Littleton saith ubi supra*) it is threefold: warranty lineall, warranty collaterall, and warranty that beginneth by disseisin. Warranty by disseisin what it is, is

partly declared in *Sir Ed. Cookes reports, li. 3. Fermors case, fol. 78. a.* Whether of them divideth more aptly, let the learned judge. For my part, I thinke that lineall and collaterall bee no essentiall differences of warranty, as it is originally considered in the first warranter. For hee bindeth himselfe and his heires in general. And such bee bound, bee they lineall or collaterall unto him. Therefore this division riseth rather from the event of the originall warranty: *videlicet*, because it so falleth out, that the tenent, to whom the warranty was made, or his heires, when hee or they bee called into question for the land warranted formerly by the first feoffour, is driven by the meanes of the first warranters death, to call or vouch him to warranty that is his heire, and now presently living, bee hee descending or collaterall, as it falleth out. For example. *A. infeoffeth B. in twenty acres land, with clause of warranty against all men.* So long as *A.* himselfe liveth hee is liable to this covenant, and none else: after his decease his heire is subject unto it, be hee his sonne, brother, uncle, or what else. And whether of these, or neither of these it will be, none knoweth untill hee be dead. Wherefore I conclude that this distinction of lineall or collate-

collaterall hath no use originally in this contract. For (as the Author of the termes of Law saith) the burthen of this warrantie, after the death of the first warrantor, falleth upon him, upon whom the land should have descended, if the warrantie had not beene made. And that is the next of blood to the warrantor, be hee in the descending or collaterall line. And therefore I resolve that this distinction groweth from an event, after the death of him that covenanteth to warrant. But to make this plaine, I find warrantie to be used equivocally: signifying one sort, the contract, or covenant of warrantie first made, as appeareth by *Bracton* in the place formerly noted: and in another sort, the very effect and performance of this contract, either by the warrantor or his heires, when hee or they be by the tenent thereunto vouched, or called. As also I shew out of *Bracton*, lib. 5. tract. 4. ca. pri. nu. 2. in these words: *Imprimis videndum est quid sit warrantizatio. Et sciendum quod warrantizare, nihil aliud est, quam defendere & assequiare tenentem, qui warrantum vocabit in seifina sua, &c.* With whom agreeth *Fleta* saying that warrantizare nihil aliud est, quam possidentem defendere, li. 5. ca. 15. §. 1. & lib. 6. ca. 23. quod loqe per totum. And the former division

of lineall and collaterall warranty, rather belongeth to warranty in this second signification then the former.

And that this way, it is imperfect, or at the least obscure, I thinke it not hard to declare. First to shew this, I note out of *Bracton*, who may be called to warranty. And he lib. 5. tract. 4. cap. pri. nu. 5. saith thus: *Videndum est quis vocari possit ad warrantum, & sciendum, quod tam masculus quam femina, tam minor quam maior (dum tamen si minor vocetur, remaneat plicium de warantia in suspensio usq; ad atatem, nisi causafuerit ita favorabilis, quod atas expectari non debeat, sicut ex causa Dotis)* Item non solum vocandus est ad warrantum ille qui dedit, vel vendidit: verum etiam vocandi sunt eorum heredes descendentes in infinitum propter verba in Chartis contenta, (Ego & heredes mei warrantizabimus tali & heredibus suis, &c.) Et in quo casu tenentur heredes warrantizare, siue sint propinqui, siue remoti, remotiores, vel remotissimi. Et quod de heredibus dicitur, idem dici poterit de assignatis, & de illis, qui sunt loco illorum heredum, sicut sunt capitales Domini qui tenentibus suis quasi succedunt, vel propter aliquem defectum, vel propter aliquod delictum, sicut de eschaetis Dominorum: By which words wee perceive that

that the burthen of this warrantie is not tyed to heires onely, bee they in the descending, or collaterall line, but that under this word (*Heredes*) are comprised all such, as the first warranters lands afterwards come unto, either by descent, or otherwise *ex causa lucrativa*. So that if a man have twenty children, yet if hee will, and may give his land to a stranger, leaving his children no land: that stranger in this case is his assigne, and is contained under this word, heire. So if hee commit felonie after such warrantie covenanted, and forfeited his lands to his Lord by escheate: the Lord is *quasi hares* in this case, and liable to the warrantie formerly passed. And in these two latter cases: warrantie in the second signification seemeth to be neither lineall, nor collaterall: at the least, as *Littleton*, and the other Authour have defined, or by examples expressed them.

But yet let us define these two species as they be; wherefore lineall warrantie is that, which hee is called unto by the Tenent, upon whom the land warranted had descended, if the warrantie had not beene covenanted. For example: *A.* selleth to *B.* twenty acres land with clause of warrantie, and afterward dieth, leaving issue. *C.* soone after *B.* is im-

pleaded for this land by *D.* and voucheth *C.* This is called a lineall warranty: because but for it the land had descended from *A.* to *C.*

Warranty collaterall, is that whereunto hee is called by the Tenent, upon the covenant of him, from whom the land could not descend, to the party called. For example: *B.* the Sonne purchaseth Tenements in Fee, whereof *A.* his Father disseiseth him, and selleth them to *C.* with a clause of warrantie. *A.* being dead, *C.* is impleaded for the Tenements, and calleth *B.* to warrantie. This warrantie whereunto *B.* is called, is collaterall: because the Tenements, if the warrantie had not beene covenanted by *A.* could not have descended from him to his Father *A.* for they were his owne by purchase. Many other examples there bee of this in *Littleton*. And this very case hee maketh his example of warrantie by disseisin, as also of warrantie collaterall, which plainly argueth, that warranty by disseisin, and warrantie collaterall, are not distinct members of warrantie, but may be confounded: though one warrantie may carry both names in divers respects. For there is some warrantie collaterall that beginneth not by disseisin. For

example: *A.* Tenent in taile, alienateth to *B.* in fee, and dieth leaving issue. *C.* afterward. *D.* Brother to *A.* and Uncle to *C.* releaseth to *B.* with warrantie, and dying, leaveth *C.* his heire being next of blood unto him. This warrantie is collaterall, because it descendeth upon *C.* from his Uncle *D.* and yet it beginneth not by disseisin of his said Uncle.

Warrantie, hath a double effect: one to debarre him upon whom it descendeth from the first warrantor as his next of blood, from claiming the land warranted: and another to make it good to the tenent, if by him hee be vouched thereunto, or else to give him as much other land by exchange. But as the former of these effects taketh place with all heires, except those to whom the land warranted was intailed, and that reape no equivalent benefit by the first warrantor, anno 6. Ed. prim. cap. 3. so the latter prejudiceth none that receiveth not sufficient land from the first warrantor to make it good, *Bracton, lib. 5. tractat. 4. cap. 8. num. prim. & cap. 13. num. 2.* In the Customarie of Normandie ca. 5. you have *vouchment de garant*, which the Interpreter translateth, *Vocamentum Garanti*, a Voucher or calling of the warrantor into the

Court to make good his sale or gift.

Warrantia diei, is a writ lying in case, where a man having a day assigned personally to appeare in Court to any action wherein he is sued, is in the meane time by commandement employed in the Kings service, so that hee cannot come at the day assigned. This writ is directed to the Iustices to this end, that they neither take nor record him in default for that day. *Register originall, fol. 18.* Of this you may reade more in *Fitzherb. nat. brev. fol. 17.* and see *Glanvile, lib. prim. cap. 8.*

Warrantia charta, is a writ that lieth properly for him who is infeoffed in land or tenements with clause of warrantie, and is impleaded in an Assise or writ of Entrie, wherein hee cannot vouch or call to warrantie: for in this case his remedy is, to take out this writ against the feoffour or his heire, *Regist. origin. fol. 157. Fitzh. nat. br. fol. 134.* Of this you may likewise reade *Fleta, lib. 6. cap. 35.* and *West. parte 2. symb. titulo Fines. Sect. 156.*

Warrantia custodia, is a writ Iudiciall, that lyeth for him that is challenged to bee ward unto another, in respect of land said to bee holden in Knights service, which when it was bought

by the ancesters of the ward, was warranted to be free from such thraldome. And it lieth againe to the warranter and his heires, *Regist. Indic. fol. 36.*

Warrant of Atturney. See Letter of Atturney, and Warranty.

Wardwite significat quietantiam misericordie in casu quo non inuenit quis hominem ad wardam faciendam in castra, vel alibi, Fleta, lib. 1. cap. 47.

Warren (Warrenna, aliàs varrenna) commeth of the French (*Garrenne. i. vivarium, vel locus in quo vel aves, vel pisces, vel fera continentur, quæ ad victum duntaxat pertinent*) Calapine out of *Aulus Gellius, lib. 2. Noct. Attica ca. 20.* A warren (as wee use it) is a prescription or grant from the King to a man, of having Fesants, Partridges, Connies, and Hares, within certaine of his lands, *Cromptons Iuris d. fol. 148.* where hee saith, that none can have warren, but onely the King, no more then Forest or Chase. Because it is a speciall priviledge belonging to the King alone. And a little after hee hath words to this effect: The King may grant warren to mee in mine owne lands, for Fesants and Partridges onely. And by this grant no man may there chase them without my license. And so of Hares, but not of Connies. For their property is to destroy the frutes

of the earth, as to eate Corne, and pill the barked of Apple trees. Master *Manwood* in his first part of Forest lawes, saith thus of it: A warren is a franchise, or priviledged place of pleasure, onely for those beasts and foules that are beasts and foules of warren, *tantum campestris & non sylvestres, viz.* For such beasts and foules as are altogether belonging to the fields, and not unto the woods: and for none other beasts or foules. There are but two beasts of warren, that is to say, Hares and Connies: And there are also but two foules of warren, *viz.* Fesants and Partridges. And none other wild beasts or birds have any firme peace, priviledge, or protection, within the warren. If any person bee found to be an offender in any such free warren, hee is to be punished for the same by the course of the common law, and by the statute, *anno 21. Edw. 3.* called the statute *de male factoribus in parcis & chaseis, &c.* For the most part there are no Officers in a warren, but the Master of the Game, or the Keeper. A free warren is some time inclosed, and also the same some time doth lie open, for there is no necessity of inclosing the same, as there is of a park, for if a park be suffered to lie open, it ought to be seised into the Kings

Kings hands. Thus farre *M. Manwood*.

Warscot, is the contribution, that was wont to bee made towards armour in the Saxons time. In *Canutus* his Charter of the Forest set out by *M. Manwood* in the first part of his Forest lawes, num. 9. you have these words: *Sint omnes tam primarii quam mediocres, & minuti, immunes, liberi & quieti ab omnibus provincialibus summonitionibus, et popularibus placitis, que Hundred laghe Angli dicunt, & ab omnibus armorum oneribus, quod Warscot Angli dicunt, & forinsecis querelis.*

Warwit, aliàs, *Wardwit*, is to be quite of giving money for keeping of watches. New exposition of law termes.

Waste (*vastum*) commeth of the French (*gaster. i. populari*). It signifieth diversly in our common law, first, a spoyle made, either in houses, woods, gardens, orchards, &c. by the tenent for terme of life, or for terme of anothers life, or of yeares, to the prejudice of the heire, or of him in the *Reversion* or *Remainder*. *Kitchin*, fol. 168. &c. usque 172. upon this committed the writ of waste is brought for the recoverie of the things, whereupon the waste is made. See *Vasso*. Waste may bee also made of tenents or bond-

men belonging or regardant to the manour. *Regist. orig. fol. 72. a & 73. a*. See the new booke of Entries, verbo *Waste*. A waste of the Forest (as *M. Manwood* saith, *part. prim.* of his Forest lawes, pag. 172.) is most properly where any man doth cut downe his owne woods within the Forest, without license of the King, or of the Lord chiefe Iustice in *Eyre* of the Forest. But it is also, where a man doth plow up his owne meadow or pasture, and converteth it unto tillage. And of this you may reade him at large, in his second part, cap. 8. num. 4. & 5. Waste in the second signification is taken for those parts of the Lords *Demefns*, that bee not in any one mans occupation, but lye common for bounds or passages of the Lord and tenent from one place to another, and sometimes for all the Kings Subjects. Which seemeth to bee called waste, because the Lord cannot make such profit of it, as hee doth of other of his land, by reason of that use which others have of it in passing to and fro. Upon this none may build or feed, or cut downe trees, without the Lords license. Waste hath a third signification, as yeare, day, and waste. *Annus, dies, & vastum*: which is a punishment or forfeiture be-

longing to petit treason, or felonie: whereof you may reade *Stamf. pl. cor. lib. 3. cap. 30.* And see *Yeare, Day, and Waste.*

Wasters, anno 5. Ed. 3. cap. 14.
See *Roberds men.* See *Draw latches.*

Wastell breade, anno 51. H. 3.
statute of bread, and statute of piloric.

Water bayliffes, seeme to be officers in port townes for the teaching of ships, *anno 28. H. 6. cap. 5.*

Watling street, is one of the foure wayes, which the Romanes are said to have made here in *England*, and called them *Consulares, Pratorias, Militares, Publicas.* *M. Camden* in his *Britannia*, perswadeth himselfe that there were more of this sort than foure. This street is otherwise called *Werlam street* (as the same Author saith; and howsoever the Romanes might make it and the rest, the names bee from the Saxons. And *Roger Hoveden* saith, it is so called, because the sonnes of *Wethle* made it, leading from the East sea to the West, *Annal. part. prior. fol. 248. a.* This street leadeth from *Dover* to *London*, and so to *Saint Albons*, and there onward directly toward the North-west through the land, as from *Dunstable* to *Westchester*, *anno 39. El. cap. 2.* the second streete is called *Ike-*

nild street, beginning at *Icenis*, who were the people inhabiting *Northfolke*, *Suffolke*, and *Cambridge shire*, as *M. Camden* declareth, pag. 345. The third is called *Fosse*: the reason of the name hee giveth, because he thinketh it was ditched of each side. The fourth is called *Ermin street*, *Germanicb vocabulo, à Mercurio, quem sub nomine Irmisull. i. Mercurii columna, Germani majores nostri coluerunt.* Of these reade more in the said Author, pag. 43. & 44. In the description of *England* going under Saxons name, *cap. 7.* I reade that *Belinus* a Briton King made these foure wayes: whereof the first and greatest hee calleth *Fosse*, stretching out of the South into the North, and beginning from the corner of *Cornwel*, and passing forth by *Devonshire*, *Somersetshire*, and so along by *Tetburie* upon *Tote* (would besides *Coven-tree* unto *Lecester*, and thence, by the wide plaines to *Newarke*, and to *Lincolne*, where it endeth. The second hee nameth *Watling street*, comming out of the South-east toward the *Fosse*, beginning at *Dover*, and passing through the middle of *Kent* over *Thames*, beside *London* neere *Westminster*, and thence to *Saint Albons*, by *Donstable*, *Stratford*, *Towceter*, *Wedon*, *Lilborn*, *Atheriston*, *Gilberts hill*, now called *Wreaken*, by *Severne*

*Severne, Workecester, Stratton, and so forth by the middle of VVales, unto Cardigan, and the Irish seas. The third hee calleth Erminage-street, stretching out of the West North-west into the East South-east, from S. Davids in the West VVales unto Southhampton. The fourth hee called Rikenild street, stretching forth by VVorcester, by Wiccombe, Brinningham, Litchfield, Derby, Chesterfield, and by Yorke forth into Tynmouth. But hee that listerh to reade at large of these wayes, let him have recourse to the first volume of *Hollandes Chronicle*, and the description of *England* there, the 19. chapter. Where this antiquitie is farre otherwise declared, then by the former writer. *Henry of Huntington* likewise in the first booke of his *Historie*, nor farre after the beginning mentioneth these foure streets, terming them *calles Regia sublimatos auctoritate, ne aliquis in eis inimicum invadere auderet, &c.**

Waterbayliffes, anno 28. H. 6. cap. 5. is an officer belonging to the Citie of *London*, which hath the supervision and search of fish, that is brought to that Citie, as also the gathering of the tolle rising from that water. Hee is reckoned an Esquier by his office, as the Sword-bearer, the Huntsman, and the chiefe Sergeant is. He also attendeth upon

the Lord Maior for the time being, and hath the principall care of marshalling the guests at his table.

VVay. See *Chimin.*

VVeise (*wadium*) whence it hath his originall I cannot certainly say. But I find the nineteenth chapter of the *Grand Customary* of *Normandy* to be intituled (*De choses gaignes*) and latined by the Interpreter (*De rebus vainis*) which are there thus defined: *vainia sunt res, vel alia, quae nullius proprietati attributa, sine possessionis reclamatione sunt inventa, quae usq; ad diem & annum servanda sunt. Et de iis modo, quo dictum est de veriscis, that is (weeks) easua esse probantibus est restitutio facienda, &c.* This *weise* or things *weived* have the very same signification in our common law, and becomought but things forsaken, The *Civilians* call it (*Derelictum*) or (*Quod est pro derelicto*) *Bracton* in the twelue chapter of his first booke nu. 10, reckoneth them *inter res quae sunt nullius ea quae pro waiwio habentur: sicut de averiis, ubi non apparet Dominus, where he also saith, quod olim fuerunt inventoris de jure naturali, & jam efficiuntur principis de jure Gentium* That this is a *Regality*, and belonging to the *Kiug*, except it be challenged by the owner within 2 yeare and a day, it appeareth by *Britton* in his

B b b b 3. seven.

seventeenth chapter. Now the Kings in their times have granted this and such like Prerogatives unto divers Subjects with their fees, who there likewise saith, that weifes, things lost, and estrayes, must by the Lord of the franchise where they are found, bee caused to bee cryed and published in markets and Churches neere about, or else that the yeare and day doth not ruane to the prejudice of him that hath lost them. See *VVaine*, *M. Skene de verborum signif. verb. waife*, saith, that *waife est pecus, vel animal aberrans*, which wanders and wanders without a knowne master, and being found by any man within his owne bounds, must bee by him proclaimed upon divers, and sundry Market dayes, at the Parish Church, and within the Shieriffe-dome. Otherwise the Deteyner may bee accused of theft. And it is lawfull for the owner to challenge the beast within a yeare and day. Whereby it appeareth, that in *Scotland* that is called a weife which wee here call a stray or estray.

Weald of Kent, is the wooddy part of the Countrey, *Camden Britannia*, pag. 247. *M. Verstegan* in his restitution of decayed intelligence saith, that *VVald*, *VVeald*, and *VVould* differing in

vowel, signifie one thing, to wit a Forest. See the rest *litera W*.

Wedding (*Nuptie*) commeth of the German (*wed*) i. *pignus*, and *wedde* in *Scotland* signifieth so much at this day. *Skene de verborum signif. verbo vadum*.

Weigh (*waga*) is a certaine waight of cheese or wooll, containing 256. pounds of *avojr de poyce*. See *Clove*.

Weights (*Pondera*) what they be, it is well knowne. There bee two sorts of them in use with us. The one called *Troy weight*, which containeth twelue ounces in the pound, and no more: by the which, pearle, precious stones, electuaries, and medicinall things, gold, silver, and bread be weighed: The other is called *Aver de pois*, which containeth sixteene ounces in the pound. By this all other things are weighed that passe betweene man and man by weight, saving onely those above named, why the one should bee called *Troy weight*, I have not learned, though I reade it termed *libram & unciam Trojanam*: as if it came from *Troy*. But *Georg. Agricola* in his learned tractate *de ponderibus & mensuris*, pag. 339. termeth the pound of twelue ounces, *libram medicam*, and the other of sixteene ounces, *libram civilem*; saying thus of them both: *Medica & civilis libra, numero non*

grazitate unciarum differunt. The second seemeth so to bee termed by reason of the more full weight; for (*Avoir de pois*) in French, is as much to say, as to have full weight. But by these words (*Avoir de pois*) are some time signified such Marchandise as are bought and sold by this kind of weights. The first statute of York, anno 9. Ed. 3. in proem. & anno 27. Ed. 3. stat. 2. cap. 10. & anno 24 H. 8. cap. 13. Of Weights in Scotland. See *Skene de verbo. signif. verbo Serplache.* All our weights and measures have their first composition from the peny sterling, which ought to weigh two and thirty wheat cornes of a middle sort, twenty of which pence make an ounce, and twelve such ounces a pound, or twenty shillings, but fiftene ounces make the Merchants pound, *Fleta, lib. 2. cap. 12.* It is not unlike that this Merchants pound, though an ounce lesse, should bee all one in signification with the pound of *Avoir de pois*; and the other pound, called by *Flata trone weight*, plainly appeareth to be all one with that which wee now call Troy weight. And I finde not Troy weight mentioned by any other that ever I read upon this subject, but onely our owne Countrey men. See *Tronage.*

Weights of Auncell, an. 14. Ed. 3. stat. 1. ca. 12. See *Auncell weight.*

Were, aliàs werre, significth as much as (*Æstimatio capitis, aut pretium hominis.* M. Lamb. explic. of Saxon words, verb. *Æstimatio*) That is to say, so much as one paid for killing of a man. Wherby he gathereth, that slaughters, and such other great offences, were more rarely comitted in ancient times, then now: when as for the multitude of offenders, death is most justly inflicted for these crimes, that then were redressed by pecuniary mulcts. Of this see *Roger Hoveden, parte poster. suorum annalium: in Henrico 2. fo. 344.*

Weregelt thef. significat *latro-nem qui redimi potest. vera enim anglice idem est in Saxonis lingua, vel pretium vite hominis appetitum, Fleta, lib. 1. cap. 47.*

West Saxon lage, aliàs West Saxonlage. See *Law.*

Wharfe (wharfsa) is a broad plaine place neere to a Creeke or Hithe of the water, to lay wares upon, that be brought to or from the water, to be transported to any other place. *New booke of Entries, fol. 3. col. 3.*

Wharfsinger, is the keeper of a wharfe, anno 7. Ed. 6. ca. 7.

White hart silver (Candidi Cervi argentum) is a tribute or mulct paid into the Exchequer out of the Forest of White hart: which (as *M. Camden* reporteth in his

Britan.

Britan. pag. 150.) hath continued from Henry the thirds time, and was imposed by him upon Thomas De-la-tinde, for killing of a most beautifull Hart, which himselfe before had purposely spared in hunting.

Widow (*vidua*) seemeth to come of the French (*uide. i. inanitus, exinanitus*) or the verb (*vider. i. inanire*) quasi privata atq; orba marito. Macrobius lib. 1. Saturn. ca. 15. draweth it from the Hebruscan verb (*Iduare. i. dividere*). Unde *vidua* quasi valde *idua. i. valde divisa: aut vidua. i. à viro divisa*. The signification with us is apparent. But there is one kind of widow, called the widow of the King, or the Kings widow (*vidua Regis*) that requireth exposition. And she in that widow, which after her Husbands death, being the Kings tenent in capite, is driven to recover her Dower by a writ *De dote assignanda*. Of whom you may reade *Stawnsf. prerog. cap. 4.* The words of the statute of the prerog. made anno 17. Ed. 2. be these: *Item assignabit viduis post mortem virorum suorum, qui de eo tenuerunt in capite, dotem suam, qua eas contingit, &c. licet heredes fuerint plena etatis, si vidua voluerint. Et vidua ille ante assignationem dotis sue predictæ, siue heredes plena etatis fuerint, siue infra etatem, jurabunt, quod se non maritabunt sine licentia*

*Regis. Tunc Rex capiet in manum suam nomine districtionis omnes terras, & tenementa, qua de eo tenentur in dotem, donec satisfecerint ad voluptatem suam: ita quod ipsa mulier nihil capiet de exitibus, &c. quia per hujusmodi districtiones hujusmodi mulieres, seu viri eorum finem facient Regi ad voluptatem suam. Et illa voluntas tempore Regis Henrici patris Regis Edwardi estimari consuevit ad valentiam predictæ dotis per unum annum ad plus, nisi ulteriorem gratiam habuerint. Mulieres, quæ de Rege tenent in capite aliquam hereditatem, jurabunt similiter, cujuscunq; fuerint etatis, quod se non maritabunt sine licentia Regis. Et si fecerint, terra & tenementa ipsarum eodem modo capiantur in manum Domini Regis, quousque satisfecerint ad voluntatem Regis. Of this see likewise the great Charter, cap. 7. wherby it appeareth that other common Lords have the same power over their widowes, touching their consent in their marriage, that the King hath. Of this you may reade more in the writ *De dote assignanda. Fitzh. nat. br. fo. 263. G.* See also the statute anno 32. H. 8. cap. 46.*

VVindelesor. a Herald. See Herald.

Withernam (vetitum Namium) Master Lamberd thinketh to bee compounded of (wither. i. altera, siue secunda) & (Nam. i. pigno-

pignoris captio) marveiling much why it should so farre bee depraved in the Interpretation, as to bee translated (*Vetitum Namium*.) Reade him in the Explication of Saxon wordes, *verbo*, *Pignorari*. The concord of the thing signified with the meaning of the Latine words, maketh some to thinke, that it is compounded of (*wehren*.) i. *veto*.) and (*nyman*.) or (*nemmen*.) i. *capio*.) For *Withernam* in our Common Law is the taking, or driving a distresse to a hould, or out of the Countie, so that the Sheriffe cannot upon the Replevia make deliverance thereof to the partie distreined: In which case, the Writ of *Withernam* or *de vetito Namio* is directed to the Sheriffe, for the taking of as many of his beasts that did thus unlawfully distrein, or as much goods of his, into his keeping, till that hee hath made deliverance of the first distresse. Also if the beasts bee in a fortlet or castle, the Sheriffe may take with him the power of the Countie, and beat downe the Castle, as it appeareth by the Statute, *Westm. pri. cap. 20. Britton. cap. 27.* But *Mr. Lamberds* Interpretation seemeth more consonant to the writ, the forme whereof is thus in part, (*Fitzh. nat. br. fol. 73*) *Tibi precipimus quod averia pre-*

dicti B. in Balliva tua capias in withernam, &c. and the Register orig. fol. 82. & 83. & 79. a. & 80. a. and in the Regist. Indic. fol. 29. a. & 30. a. Whereby it appeareth, that the Sheriffe by these words is willed to take in compensation of the former taking so many cattell, &c. But yet this may qualifie *M. Lamberds* marveiling, because they that translated this word into such Latine, seeme to have been deceived by the propinquitie of the word, (*wehren*) both to the word (*withernam*.) and also to the meaning. This error (if it bee an error) hath a probable likelihood of descent from the *Normans*, as appeareth by the *Grand Customarie*, cap. 4. where you have words to this effect: *Deficientes (sc. Ballivos) facere justiciari, & ea, de quibus judicium vel recordatio habet fieri in curia: debet (sc. Justiciarius) retrahere vel recitare. Treugam dari debet facere, quod est asscuratio pacis observanda. Nampta injuste capta per jus facere liberari, &c.* Here you may see (*Nampta*) referred to the first taking or distresse, which is unlawfull. *Sir Thomas Smith* in his *Repub. Anglor.* agreeth with *M. Lamberd* in these words: This (*withernam*) he, meaning *Littleton*, with whom *Bracton* also agreeth, lib. 2. cap. 5. & lib. 3. tract. 2.

cap. 36.) interpreteth *veritum* *Namium*, in what language I know not. Whereas in truth it is in plaine Dutch, and in our old Saxon language (*withernempt. i. alterum accipere, alterum rapere*) a word that signifieth all one with that barbarous Latine word (*Reprasalia*) when one taking of me a distresse, which in Latine is called (*pignus*) or any other thing, and carying it away out of the Iurisdiction, where I dwell, I take by order of him that hath iurisdiction, another of him againe, or of some other of that Iurisdiction: and doe bring it into the iurisdiction, wherein I dwell: that by equall wrong I may come to have equall right, &c. *Namatio animalium* in Scotland is used for the pounding of cattell, *Skene de verbor. signif. verbo, Averia*: whom also reade, *verbo, Namare*. *Withernam* in *Bracton lib. 3. tract. 2. ca. 37.* and also in *Westm. 2. cap. 2.* seemeth to signifie an unlawfull distresse, made by him that hath no right to distreine, *anno 13. Ed. prim. cap. 2.* See the new booke of Entries. *verbo Withernam.*

Woad, (*glastum*) is an herbe brought from the parts of *Toulouse* in France, and from *Spaine*, much used and very necessary in the dying of wollen cloth, *an. 7. H. 8. cap. 2.* we call it *woad* of the

Italian word (*guado*) or the Germane word (*weidt*.)

Woodgeld, seemeth to bee the gathering or cutting of wood within the Forest, or money payed for the same, to the use of the Foresters. And the immunitie from this by the Kings graunt, is by *Crompton* called *Woodgeld*, fol. 197.

Woodmen, seeme to be those in the Forest, that have their charge especially to looke to the Kings woods. *Manwood parte pri.* of his Forest lawes, pag. 193. and *Cromptons Iurisd.* fol. 146.

Woodmote court, is the Attachment of the Forest. *Manwood parte pri.* of his Forest lawes, pag. 95. See *Attachment*.

Woodward (*Woodwardus*) is an officer of the Forest, whose function you may partly gather by his oath set downe in *Cromptons Iurisd.* fol. 201. which *M. Manwood* hath also in his first part of his Forest lawes, pag. 50. to the same effect, but something more at large, *viz.* You shall truly execute the office of a woodward of *B. woods* within the Forest of *W.* so long as you shall bee woodward there: you shall not conceale any offence either in Vert or in Venison, that shall bee committed or done within your charge: but you shall truly present the same, without any favour, affection or reward. And if

if you doe see or know any Malefactors, or doe find any Deere killed or hurt, you shall forthwith doe the verderour understand thereof. And you shall present the same at the next Court of the Forest: be it *Swainemote*, or Court of Attachments, so help you God. Woodward may not walke with Bow and Shafts, but with Forest bills, *Manwood parte pri.* of his forest lawes, pag. 189. and more of him pag. 97.

Wooldriver, anno 2. & 3. Ph. & Ma. cap. 13. be thole that buy Wooll abroad in the Country of the Sheep matters, and carrie it by horse back to the Clothiers, or to Market townes to sell it againe.

Woolferhesod (*Caput lupinum*) is the condition of those, which were outlawed in the Saxons time, for not yielding themselves to Iustice. For if they could be taken alive, they must have been brought to the King: and if they in feare of apprehension did defend themselves, they might be slaine, and their heads brought to the King. For they carried a Woolves head: that is to say, their head was no more to be accounted of, than a Woolves head, being a beast so hurtfull unto man. See the lawes of K. Ed. set out by M. Lamberd, fol. 127. b. nu. 7. The very like whereof *Braeton* also saith, lib. 3. tract. 2.

ca. 11. See *Utlarie*. Roger Hoveden writeth it (*Wulvesheved, parte poster. suorum annalium* fo 343. b.) whom reade of this matter, because you shall there see what it was in thole daies to violate the peace of the Church.

Woolstaple, anno 51. H. 3. stat. 5. See *Staple*.

Wooll winders, be such as wind up every fleece of Wooll that is to be packed and sold by weight, into a kind of bundle after it is cleansed in such maner as it ought to be by Statute. And to avoid such deceit as the owners were wont to use by thrusting lockes of refuse Wooll, and such other drosse to gaine weight, they are sworne to performe that Office truly betweene the owner and the merchant. See the Statute, anno 8. H. 6. cap. 22. & anno 23. H. 8. cap. 17. & anno 18. Eliza. cap. 25.

Would. See *Weald*.

Wranglands, seeme to bee mis-growne Trees that will never prove Timber, *Kitchin*, fol. 169. b.

Wormseed (*Semen santonicum*) is medicinall seed brought forth of that Plant which in Latine is called (*Sementina*) in English. Holy wormwood, whereof you may reade in *Gerards Herball*, li. 2. cap. 435. This is a Drugge to bee garbled, anno 1. Iacob. cap. 19.

Wreck (*wreccum vel wrectum maris*,) is the losse of a Shipp and the goods therein conteyned, by tempest, or other mischaunce at the sea. The Civilians call it, (*Naufragium*.) This wrecke being made, the goods that were in the Shipp, being brought to land by the waves, belong to the King by his prerogative. And thereupon in many Bookes of our Commonlawe, the very goods so brought to land, are called wreck. And wrecke is defined to bee those goods which are so brought to land. Sir Edm. Coke *vol. 6. relatio, fol. 106. a.* and the statute anno 17. Edward. 2. cap. 11. in these words, *Item Rex habebit wreccum maris, per totum Regnum, ballenas, & sturgesiones captas in mari vel alibi infra Regnum, exceptis quibusdam locis privilegiatis per Regem.* Whereby it appeareth that the King hath them, or such as have by Grant this Libertie or Priviledge of him. And that this Statute doth but affirme the auncient Lawe of the land, it appeareth by *Bracton, lib. 2. cap. 5. num. 7. his verbis: Sunt etiam alia res qua pertinent ad Coronam propter privilegium Regis, & ita communem non recipiunt libertatem, quin dari possint, & ad alium transferi. Quia si transferantur, translatio nulli erit damno-*

sa, nisi ipsi Regi sive Principi, Et si huiusmodi res alicui conces. se fuerint, sicut wreccum maris, &c. The reason of this hee toucheth shortly in his first booke, cap. 12. num. 10. where hee reckoneth these goods (*jure naturali*) to be (*in bonis nullius*) *quia non apparet Dominus eorum, sed jure Gentium fieri principis.* And see him also *lib. 2. cap. 24. num. 1. & 2.* It is worth the asking to knowe what is a wreck and what not in this stricter signification. And the Author of the termes of Law saith, that if any person of the Ship come to land, it is not a wrecke, or the wrecke is not such, that the King ought to have the goods, with whom agreeth Sir Edward Coke *vol. 6. fol. 107. a.* No, if either Dogge or Catte escape alive to the land, the goods are the honours still, so he come within a yeare, and day to claime them. And for this the statute is plaine. *Westm. prim. cap. 4. anno 3. Edward prim.* which doctrine Fitzherbert in his *natura brevium, fol. 112. &* extendeth thus farre, that if any of the goods bee cast upon the dry Land by any in the Ship, it is no wrecke subiect to the Prerogative, for by this some of the Shippe are presumed to come to land, and still to have a custody of the goods. *Cooke ubi supra.* This in the Grand Customary of Norman-

Normandy. *cap. 17.* is called (*varrech*) and latined (*veriscum*) where it appeareth that the like law to ours was in Normandy almost in all points. But some sorts of their pretious Merchandise doe by their law appertaine to the Duke by his prerogative, though a just challenge of the goods bee made within the yeare and day. The Emperours of Rome made no advantage of this pitifull event, as appeareth: *titulo De Naufragijs 11. Cod.* And it appeareth that Richard the first had some remorse of poore sea mens miseries in this case. For he *quietum clamavit wreck suis subditis. Rog. Hoveden parte poster: suorum annal. fol. 386.* Of this *M. Skene de verb. signif.* speaketh to this effect: *wreck* signifieth a power, liberty, and prerogative appertaining to the King, or to any person, to whom the same is graunted by him by feofment, or any other disposition, to take up and gaine such goods as are ship-broken, or fall to him by escheate of the sea.

Writ, (breve) is that with our common Lawyers (in *Sir Tho. Smiths judgement lib. 2. de Repub, Anglorum. cap 9*) which the Civilians call (*Actionem, sive formulam*) But I am rather of his judgement, that hath added the

marginall note unto him, saying that (*Actio*) is the parties whole suite: and that (*Breve*) is the Kings precept, whereby any thing is commaunded to bee done touching the suite or action: as the Defendant or Tenant to be summoned, a distresse to bee taken, a disseisin to bee redressed, &c. And these writs are diversly divided, in divers respects. Some in respect of their order, or manner of graunting, are termed originall, and some Iudiciall. Originall writs bee those, that are sent out for the summoning of the Defendant in a personall, or Tenant in a reall action, or other like purpose, before the suite beginneth, or to beginne the suite thereby: Those bee iudiciall, that bee sent out by order of the Court, where the case dependeth, upon occasion growing after suite begunne, *old. nat. br. fol. 51.* And Iudiciall is thus by one signe knowne from the Originall, because the *Teste* beareth the name of the chiefe Iustice of that Court whence it cometh, where the Originall beareth in the *Teste* the name of the Prince. Then according to the nature of the action, they bee personall or reall: and reall bee either touching the possession, called writs of Entrie, or the property, called writs of right.

Fitzh. nat. br. sparsim per totum. Some writs be at the suite of a party, some of office, *Old nat. br. fol. 147.* Some ordinary, some of privilege. A writ of privilege is that which a privileged person bringeth to the Court, for his exemption, by reason of some privilege. See *Procedendo*. See the new booke of Entries. *verbo. Priviledge*. See *Briefe*.

Writ of rebellion. See *Commission of rebellion*.

Writer of the tallies (*Scriptor talliarum*) is an officer in the Exchequer, being Clerke to the Auditour of the Receipt, who writeth upon the Tallies the whole letters of the Tellers bills.

Y

Yard land (*Virgata terra*) is a quantitie of land called by this name of the Saxon (*Gyrd-lander*) but not so certain a quantity, as that it is all one in all places: For in some Countries it containeth 20. acres, in some 24. in some 30. as *M. Lamberd* saith, in his explication of Saxon words. *verbo. virgata terra*. This yard land *Bracton* calleth (*virgatam terra. lib. 2. cap. 20. & 27.*) but hee expresseth no certainty what it containeth.

Yeare and day (*annus & dies*) is a time thought in construction of our common law, fit in many

cases to determine a right in one, and to worke an usucapion or prescription in another. As in a case of an estray, if the owner (*Proclamations being made*) challenge it not within that time, it is forfeit. So is the yeare and day given in case of appeal, in case of descent after entry or claime; of no claime upon a fine or writ of right at the common law: so of a villein remaining in ancient demeane, of the death of a man fore bruised or wounded: of Protections; *Essoines* in respect of the Kings service: of a writ, and divers other cases, *Coke. vol. 6. fol. 107. b.* And that touching the death of a man seemeth an imitation of the civill law. *Nam si mortifere fuerit vulneratus, & postea post longum intervallum moriurus sit, inde annum numerabimus secundum Iulianum. I. ait lex π. ad legem Aquil.*

Yeare, day, and waste, (*annus dies, & vastum*) is a part of the Kings Prerogative, whereby hee challengeth the profits of their lands and tenements for a yeare and a day, that are attainted or petit treason, or felonie, whosoever bee Lord of the Manor, whereunto the lands or tenements doe belong, and not onely so, but in the end wasteth the tenement, destroyeth the houses, rooteeth up the woods, gardens, pastures, and ploweth up
mea-

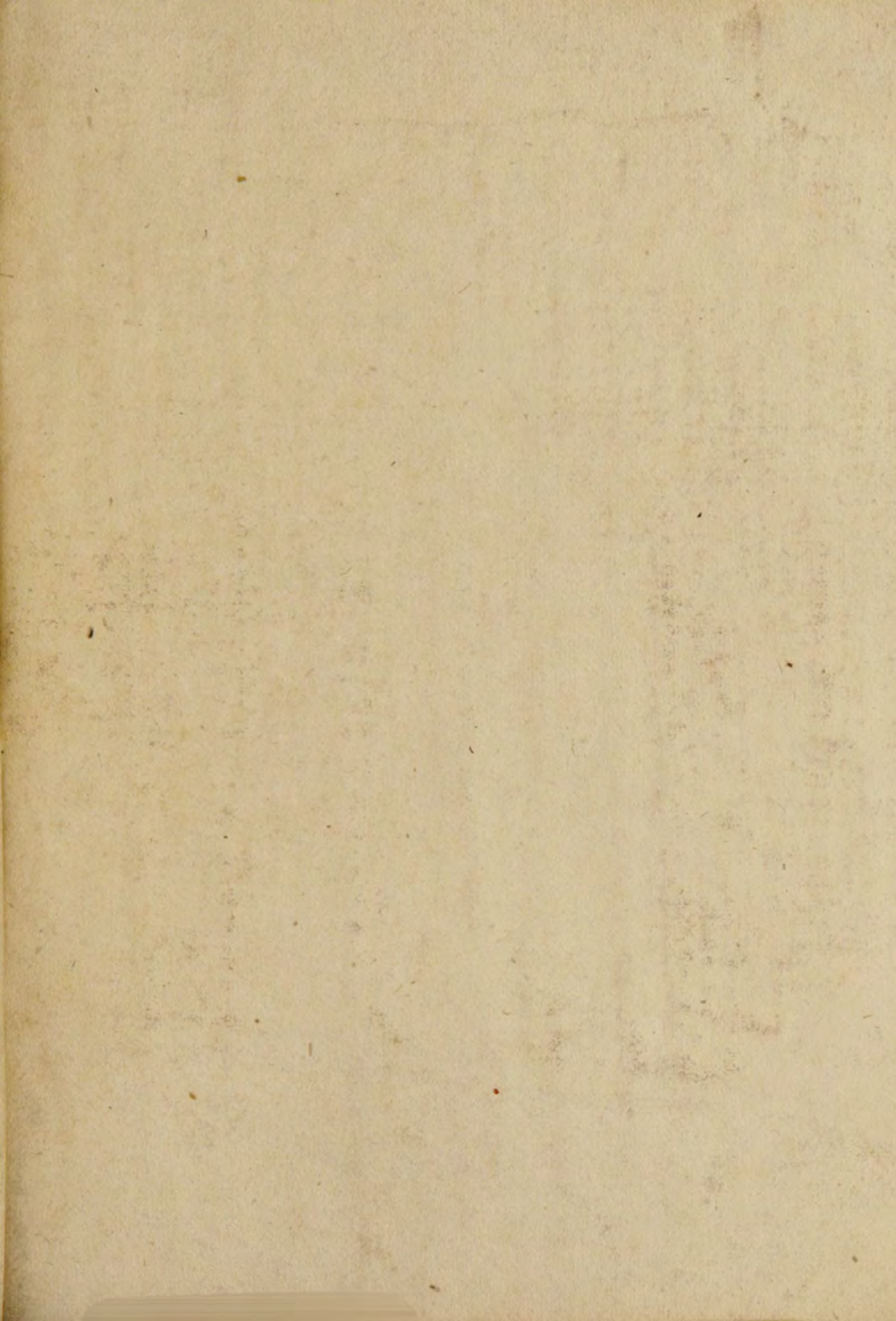
meadows, except the Lord of the fee agree with him for the redemption of such waste, afterward restoring it to the Lord of the fee, whereof you may reade at large, *Stawns. prarog. cap. 16. fol. 44. & seqq.*

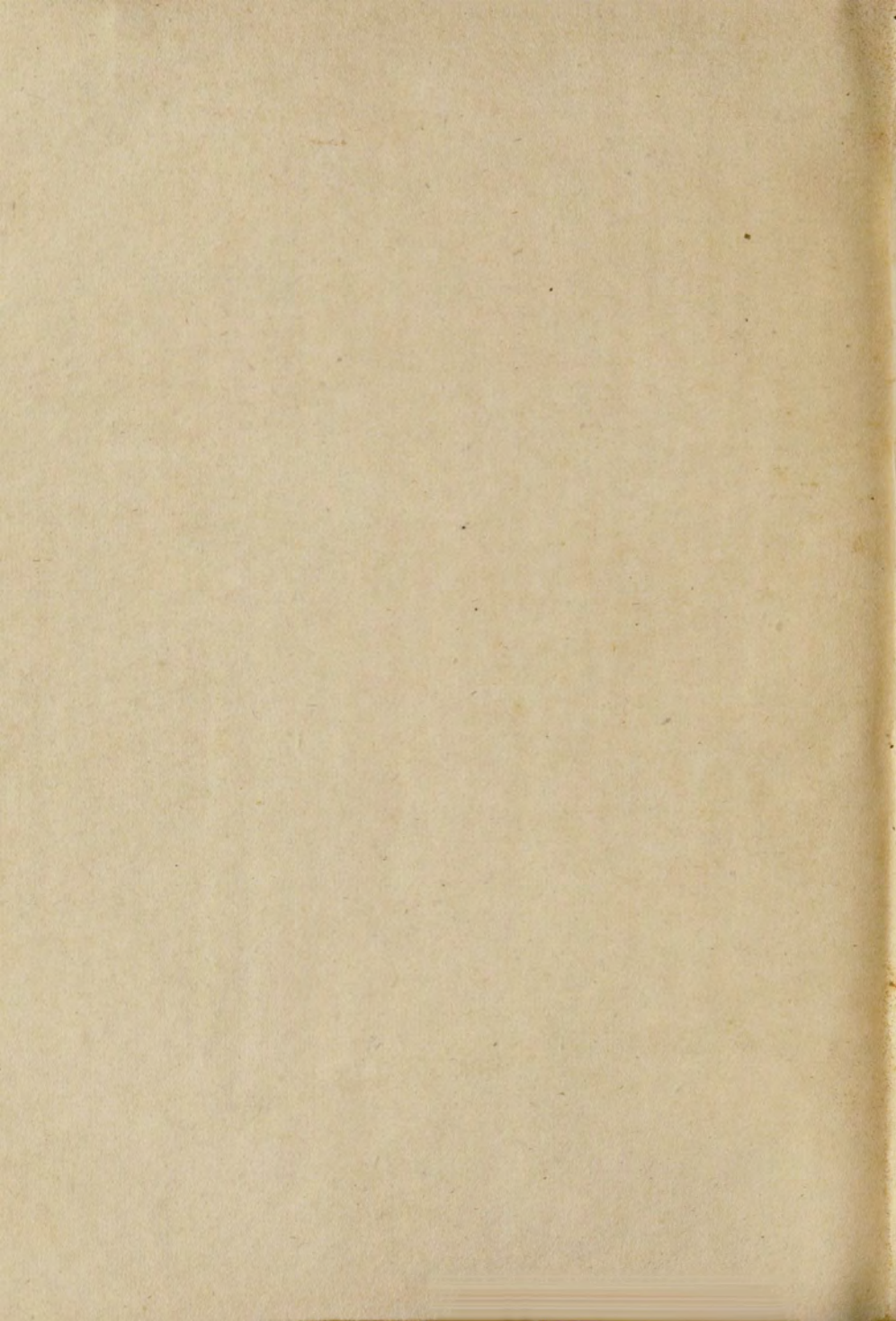
Yoman, seemeth to bee one word made by contraction of two Danish words (*young men*) which I gather out of *Canutus* Charter of the Forest set out by *M. Manwood*, parte prim. fol. prim. num. 2. in these words: *Sunt sub quolibet horum quatuor ex mediocribus hominibus, quos Angli (Legespend) nuncupant, Dani vero (young men) vocant, locati, qui curam & onus tum viridis tum veneris suscipiant.* These *M. Camden* in his *Britan. pag. 105.* placeth next in order to Gentlemen, calling them (*Ingenuos*) whose opinion the statute affirmeth, anno 16. R. 2. cap. 4. Whereunto adde the statute, anno 20. ejusdem Regis cap. 2. *Sir Thomas Smith* in his *Repub. Anglor. lib. prim. cap. 23.* calleth him a *Yoman*, whom our lawes call *legalem hominem*: which (as he saith) is in English a Free-man borne, that may dispend of his owne free land, in yearly renew, to the summe of forty shillings sterling. Of these he writeth a good large discourse, touching their estate and use in this Common wealth. The former etymologie of the name he liketh not, ma-

king question whether it come of the Dutch (*Tonger*) yea or not, which in the Low-countries signifieth a meane Gentleman, or a gay fellow; but he that hath added the marginall notes to that booke, seemeth to draw it from the Saxon (*Geman*) which signifieth a married man. *M. Verstegan* in his restitution of decayed intelligence, cap. 10. writeth, that (*Gemen*) among the ancient *Ten-tonicks*, and (*Germein*) among the moderne, signifieth as much, as common, and that the first Letter *G*, is in this word, as in many others, turned into *T*. and so writen *Temen*; and that therefore *Yemen*, or *Yeoman* signifieth so much as *Commoner*. *Yoman* signifieth an officer in the Kings house, which is in the middle place betweene the Sergeant and the Groome: as *Yoman* of the Chaundry, and *Yoman* of the Scullery, anno 33. Hen. 8. cap. 12. *Yoman* of the Crowne, anno 3. Edw. 4. cap. 5. & anno 22. ejusd. cap. 1. & anno 4. H. 7. cap. 7. This word (*Tongmen*) is used for *Yemen* in the statute, anno 33. Hen. 8. cap. 10.

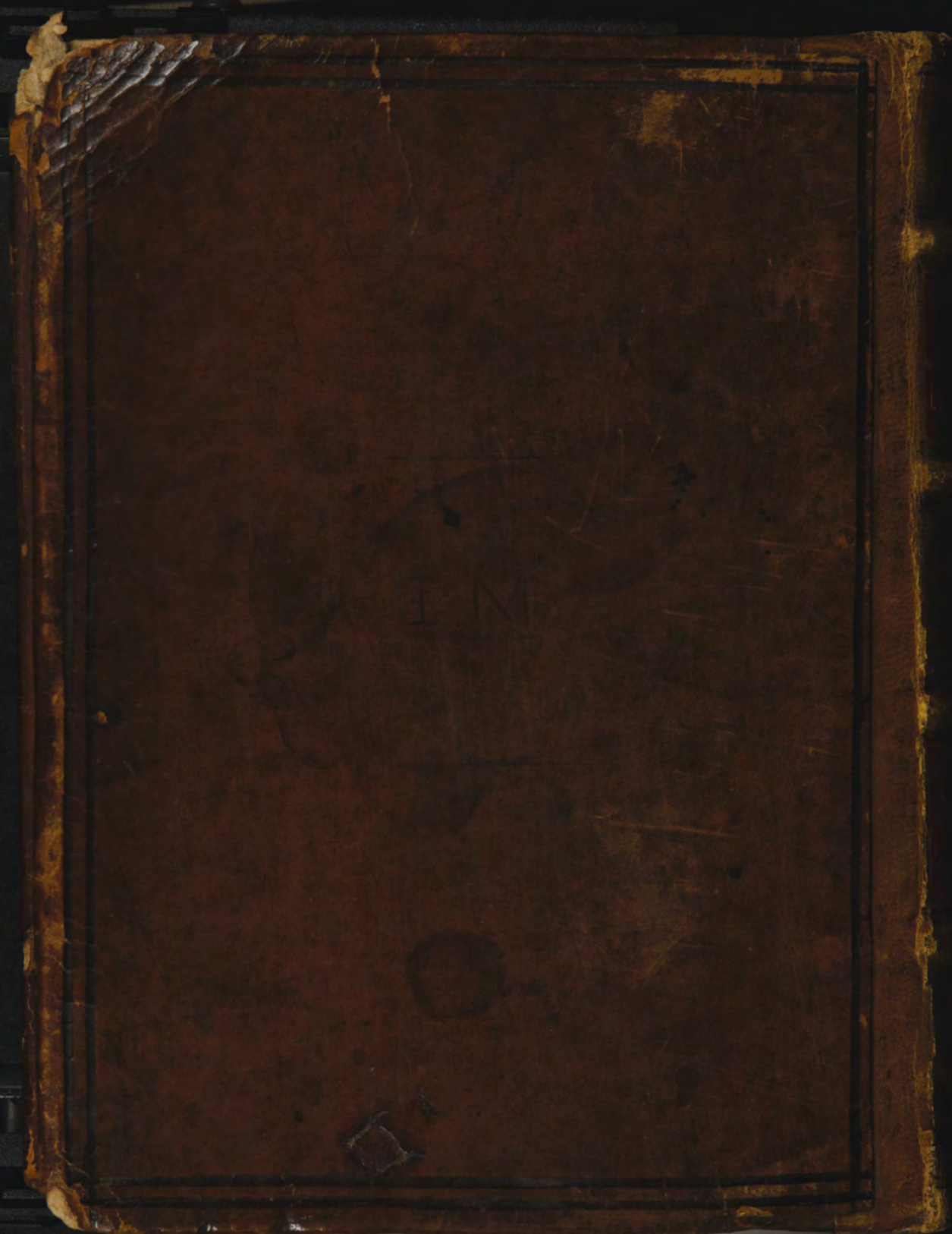
Τῶ Θειῷ Δοξα.

FINIS.









THE
INTERPRETER

COWELL.

1637.

THE
INTERPRETER.

DOWELL.

1637.

LOWELL'S
OF WORDS